

INDIANA

Minor Consent and Confidentiality

A Compendium of State and Federal Laws

National Center
for Youth Law

teenhealthlaw.org/compendium

Authors

Abigail English, JD, Consultant, National Center for Youth Law
Rebecca Gudeman, JD, MPA, Senior Director, Health, National Center for Youth Law

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.

Recommended Citation

For the entire compendium of state laws,

English A, Gudeman R. Minor Consent and Confidentiality: A Compendium of State and Federal Laws. National Center for Youth Law (August 2024).

For a particular state,

English A, Gudeman R. Minor Consent and Confidentiality: A Compendium of State and Federal Laws (State name). National Center for Youth Law (August 2024).

Disclaimer

Minor Consent and Confidentiality: A Compendium of State and Federal Laws is made available for informational purposes only and does not constitute legal advice or representation. Laws can be interpreted in different ways. For legal advice, a practicing attorney who has comprehensive knowledge of all relevant laws – federal state, and local – and who has been informed of all relevant details of the situation should be consulted. The authors have attempted to assure that the information presented is accurate as of May 2024. However, laws change frequently, new regulations are promulgated, and cases decided. The National Center for Youth Law and the authors specifically disclaim any liability for loss or risk incurred as a consequence of the use and the application, either directly or indirectly, of any material in this publication.

Acknowledgements

This work was made possible through the generous support of the Collaborative for Gender and Reproductive Equity, a sponsored project of Rockefeller Philanthropy Advisors. The authors sincerely thank National Center for Youth Law attorneys Pallavi Bugga, Nina Monfredo, and Rachel Smith for their contributions to this work. The authors also gratefully acknowledge the extensive resources of the many organizations and individuals whose work provided essential information for this publication.

Copyright ©2024 National Center for Youth Law

This document may be reproduced and distributed for non-commercial purposes with acknowledgment of its source. All other rights reserved.

Help Us Keep This Up to Date! If you see anything that needs correcting or updating, please contact the National Center for Youth Law at info@teenhealthlaw.org.

INDIANA

Table of Contents

Quick Guide	1
General	2
Consent to Health Care	2
Confidentiality & Disclosure	4
Other	5
Resources	6
Appendices	7

Quick Guide

See glossary for explanation of categories and definitions of terms.

General

- S** Age of Majority
- S** Emancipation
- S** Minor Marriage

Minor Consent to Health Care—Services

- S** Abortion³
- Emergency Care
- F** Family Planning/Contraceptives
- Outpatient Mental Health Care
- F** Pregnancy-Related Care
- Reportable, Communicable, Infectious Disease Care
- S** Sexual Assault Care
- S** **F** Sexually Transmitted Infection/Disease/HIV Care
- S** Substance Use Care

Confidentiality and Disclosure

- S** **F** Confidentiality/Access to Records
- S** **F** Disclosure to Parents/Guardians
- F** Insurance Claims/Billing

Minor Consent to Health Care—Minor's Status

- S** Emancipated Minor
- High School Graduate
- S** Married Minor
- Minor, Age or Maturity
- S** Minor in Armed Forces
- S** Minor Living Apart from Parent/Guardian
- Minor Parent
- Minor in State Custody
- Pregnant Minor

Other

- S** Conversion Therapy,⁴ Prohibition on Ban
- S** Emergency Care
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability

Key

- S** State law found⁵
- F** Federal/other law may apply

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

Ind. Code § 1-1-4-5 provides that the age of majority is 18.

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 purposes of determining whether parents have a continuing duty of support for a minor child, *Ind. Code § 31-16-6-6* provides that a minor is to be considered emancipated if the court finds that the minor has joined the U.S. armed

services, or has married, or is not under the care or control of either parent or an individual or agency approved by the court.

Minor Marriage

Ind. Code §§ 31-11-1-4, 31-11-1-5, and 31-11-1-7 provide that minors age 16 years and older may marry after obtaining judicial approval; however, a minor age 16 or 17 years may not marry an individual more than four years older.

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**Emancipated Minor**

Ind. Code § 16-36-1-3 provides that a minor who is emancipated may consent for their own health care.

Married Minor

Ind. Code § 16-36-1-3 provides that a minor who is or has been married may give consent for their own health care.

Minor in Armed Forces

Ind. Code § 16-36-1-3 provides that a minor who is in the U.S. military may consent to their own health care.

Minor Living Apart from Parent/Guardian

Ind. Code § 16-36-1-3 provides that a minor may consent for their own health care if they are: age 14 years or older; not dependent on a parent for support; living apart from a parent or person *in loco parentis*; and managing their own affairs.

Minor Consent—Services**Abortion**

Abortion is banned in Indiana, with very limited exceptions. The ban enacted in 2022 has been challenged in court and is being litigated in several cases. For up to date information on the status of abortion restrictions in Indiana, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

To the extent abortion is legally permitted, minors may obtain an abortion but *Ind. Code § 16-34-2-4* provides that an unemancipated minor may not obtain an abortion without the written consent of either one parent or a legal guardian. The law includes a judicial bypass, an emergency exception, and an exception if the pregnancy is the result of rape or incest by a parent, guardian or custodian of the minor. For more information on judicial bypass, find the "Under Age ___" section on your state's link in [If When How's Abortion Laws by State](#).

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

No statute expressly authorizes minors to consent for contraception or family planning services.

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.

Pregnancy-Related Care

Ind. Code § 16-36-1-3.5 provides that a minor age 16 years or older is competent to give consent for the minor's medical or hospital care and treatment with respect to pregnancy, delivery and postpartum care if the minor is pregnant, in labor, or postpartum during a 60 day period after the birth.

Ind. Code § 16-36-1-3.5 provides that before a provider may provide pregnancy care to a minor under minor consent as authorized by the provision, the provider must, either before or at the initial appointment, make a reasonable effort to contact the minor's parent or guardian for consent to provide the treatment and document in writing each attempt the health care provider made. If, after the provider has made a reasonable attempt to contact the parent or guardian, the provider is unable to make contact or the parent or guardian refuses to provide consent, then the health care provider must act in the best interests of the minor and fetus. If after the initial appointment, the provider determines that additional care is in the best interest of the minor and fetus, the provider must make one additional attempt to contact the parent before continuing care.

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

Ind. Code § 16-21-8-1 provides that a hospital that provides general medical and surgical hospital services shall provide forensic medical exams and additional forensic services to all alleged sex crime victims who apply for forensic medical exams and additional forensic services in relation to injuries or trauma resulting from the alleged sex crime. To the extent practicable, the hospital shall use a sexual assault examination kit to conduct forensic exams and provide forensic services. The provision of services may not be dependent on a victim's reporting to, or cooperating with, law enforcement.

Ind. Code § 16-21-8-1 provides that, for this purpose, the following crimes are considered sex crimes: rape; child molesting; vicarious sexual gratification; sexual battery;

sexual misconduct with a minor; child solicitation; child seduction; and incest.

Ind. Code § 16-21-8-3 provides that a physician or sexual assault nurse examiner who provides forensic medical exams and additional forensic services shall provide the forensic medical exams and additional forensic services to an alleged sex crime victim under this chapter with the consent of the alleged sex crime victim.

In 1978 *Ind. Op. Atty. Gen. 52*, the Indiana Attorney General has opined that neither parent nor guardian consent is necessary when rendering emergency medical and hospital treatment, including forensic exams and services provided by the sexual assault response team, to a minor who is an alleged victim and that requests for such services are emergencies.

Sexually Transmitted Infection/Disease/HIV Care

Ind. Code § 16-36-1-3 provides that an individual who has, or suspects that they have, been exposed to a sexually transmitted infection is competent to give consent for their own medical or hospital care or treatment.

Ind. Code § 16-36-7-27 provides that an individual who has, could be expected to have exposure to, or has been exposed to a sexually transmitted infection is competent to give consent for medical or hospital care or treatment, including preventive treatment, of the individual.

410 IAC 1-2.5-66, in regulations of the Indiana Department of Health governing disease reporting and control, defines "sexually transmitted disease;" the definition includes HIV.

Ind. Code § 16-41-6-1 provides that an HIV test may not be performed unless the physician or the physician's authorized representative does the following: informs the patient of the test, orally or in writing; provides the patient with an explanation of the test orally, in writing, by video, or by a combination of these methods; informs the patient of the patient's right to ask questions and to refuse the test. If the patient refuses the test, the physician or the physician's authorized representative may not perform the test, except in specified circumstances, and shall document the patient's refusal in the patient's medical record.

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

Ind. Code § 12-23-12-1 provides that a minor who voluntarily seeks treatment from the Division of Mental Health and Addiction or a facility approved by the Division for "alcoholism, alcohol abuse, or drug abuse" may receive treatment without notification or consent of the minor's parents, guardian, or person with custody or control of the minor. *Ind. Code § 12-23-12-2* provides that notification or consent is at the discretion of the Division or a facility approved by the division.

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

Access to Records

Ind. Code § 16-39-1-1 provides that a patient has the right to request their health records, to be released to the patient or a designee. *Ind. Code § 16-39-1-2* provides that health records may be requested by an emancipated minor or, for an “incompetent” patient, by a parent, guardian, or custodian. *Ind. Code § 16-39-1-7* provides for access to a minor patient’s health records by a custodial or noncustodial parent. *Ind. Code § 16-18-2-168* defines “health records.” *Ind. Code Ann. § 16-39-2-3* provides that if a health care professional reasonably determines that the information requested under *Ind. Code § 16-39-1-1* is: detrimental to the physical or mental health of the patient; or likely to cause the patient to harm the patient or another, the provider may withhold the information from the patient.

Mental Health

Ind. Code § 16-39-2-3 provides that mental health records are confidential and may only be released with the consent of the patient unless specific exceptions apply. *Ind. Code §§ 16-39-2-4* and *16-39-2-6* specify when mental health records may be withheld or released without the consent of a patient. *Ind. Code § 16-18-2-226* defines “mental health records.” *Ind. Code § 16-39-2-9* provides that a parent or guardian may exercise the rights of a patient who is a minor with respect to the minor patient’s mental health records.

Ind. Code §§ 16-39-4-1 – 16-39-4-6 contain provisions governing the 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

Substance Use

Ind. Code § 12-23-12-2 provides that when a minor voluntarily seeks treatment from the Division of Mental Health and Addiction or a facility approved by the Division for “alcoholism, alcohol abuse, or drug abuse” notification of the parents, guardian or person with custody and control

of the minor is at the discretion of the Division or a facility approved by the Division.

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.

“Conversion Therapy,” Prohibition on 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, see [Movement Advancement Project's "Equality Maps: Conversion "Therapy" Laws."](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

Specific Indiana statutes suggest that consent is not required in an emergency: e.g., *Ind. Code § 16-36-3-3* (relating to consent for treatment for “incompetent” persons) and *Ind. Code § 34-18-12-9* (relating to medical malpractice and requirements for informed consent).

Gender Affirming Care, Restriction

Ind. Code § 25-1-22-13, enacted in 2023, prohibits practitioners from knowingly providing gender transition procedures, including surgery, puberty blockers, and cross-sex hormones to a minor, with some exceptions for specified medical purposes not related to gender dysphoria. *Ind. Code § 25-1-22-15* provides that a physician or practitioner who “aids or abets” another practitioner in the provision of gender transition procedures for a minor may be subject to professional discipline. A federal district court issued a preliminary injunction against enforcement of certain provisions of the law but the injunction was stayed by the federal appellate court. See *K.C. v. Individual Members of the Med. Licensing Bd. of Ind.*, 677 F. Supp. 3d 802 (S.D. Ind. 2023) (granting a partial preliminary

injunction), No. 23-2366, 2024 U.S. App. LEXIS 4705, 2024 WL 811523 (7th Cir. Feb. 27, 2023) (order staying injunction). The litigation is ongoing.

For up to date information on the status of protections and restrictions on gender affirming care for minors, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth."](#) These laws are changing rapidly so consultation with counsel is essential. See also [Appendix G](#).

Good Faith Reliance/Immunity from Liability

Ind. Code § 16-36-1-10 specifies the circumstances in which a health care provider or other person may be protected from criminal or civil liability or disciplinary action if they act in good faith in reliance on their belief that a “representative” is authorized to make health care decisions on behalf of another person; this may include reliance on authority parents to make decisions on behalf of minors who cannot consent for themselves.

Ind. Code § 12-23-12-2 provides that a criminal action or civil suit may not be maintained against the Division of Mental Health and Addiction or the division's agents for the reasonable exercise of their discretion to require, or not require, parent consent, or notify, or not notify, parent or guardian when a minor voluntarily seeks treatment for “alcoholism, alcohol abuse, or drug abuse.”

Indiana Code <https://iga.in.gov/legislative/laws/2022/ic/titles/001>

Indiana Administrative Code <http://iac.iga.in.gov/iac/>

Appendices

Appendix A. Glossary of Terms

Appendix B. Overview of Consent and Confidentiality When Minors Seek Health Care

Appendix C. Contraception, Abortion, and Pregnancy-Related Care for Minors: Consent and Confidentiality Considerations

Appendix D. Sexually Transmitted Infections, Sexually Transmitted Diseases, and HIV Care for Minors: Consent and Confidentiality Considerations

Appendix E. Mental Health Care for Minors: Consent and Confidentiality Considerations

Appendix F. Substance Use Care for Minors: Consent and Confidentiality Considerations

Appendix G. Gender Affirming Care for Minors: Consent and Confidentiality Considerations

Appendix H. HIPAA Privacy Rule and Confidentiality Implications for Minors' Health Information

Appendix I. Title X Family Planning Program and Family Planning Services for Minors

Appendix J. 42 CFR Part 2 and Confidentiality Implications for Substance Use Care for Minors

Appendix K. FERPA and Confidentiality Implications for School-Based and School-Linked Health Care for Minors

Appendix L. Confidentiality in Health Insurance Claims and Billing

Appendix M. Electronic Health Information, the 21st Century Cures Act, and Confidentiality for Minor Patients

Appendix N. State Law Table: Minor Consent/Access Based on Status

Appendix O. State Law Table: Minor Consent/Access for Specific Services