

MICHIGAN

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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Quick Guide

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- S** Minor Marriage

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- S** Emergency Care
- S** Financial Responsibility
- Gender Affirming Care
- S** Minor Parent, Consent for Child
- S** Reproductive Freedom
- S** Shield Laws

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

Mich. Comp. Laws Ann. § 722.52 provides that the age of majority is 18.

Emancipation

Mich. Comp. Laws Ann. §§ 722.4 – 722.4e set forth the requirements and procedures for emancipation of minors by operation of law or by a court order. Minors are emancipated by a court order pursuant to a petition filed by the minor or by operation of law when legally emancipated by the laws of another state, when on active duty with the U.S. Armed Forces, and for limited purposes when in the custody of law enforcement or a prisoner or probationer under the jurisdiction of the Department of Corrections. *Mich. Comp. Laws Ann. § 722.4e* provides: “A minor

emancipated by operation of law or by court order has the rights and responsibilities of an adult, except for those specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, and other health and safety regulations relevant to him or her because of his or her age” and specifies a list of rights of emancipated minors.

Minor Marriage

Mich. Comp. Laws Ann. § 551.103 provides that as of September 19, 2023 a person must be age 18 or older to marry. *Mich. Comp. Laws Ann. § 551.251* provides that minors who were legally married prior to September 19, 2023, the effective date of the amendment, were released from parental control. Before *§ 551.103* was amended, married minors were considered emancipated.

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**

Mich. Comp. Laws Ann. § 722.4e provides that emancipated minors have the right to authorize their own preventive health, medical, dental, and mental health care.

Married Minor

Mich. Comp. Laws Ann. § 551.251 provides that minors who were legally married prior to September 19, 2023, were released from parental control. Before *§ 551.103* was amended, married minors were considered emancipated with the right to authorize their own preventive health, medical, dental, and mental health care.

Minor in Armed Forces

Mich. Comp. Laws Ann. § 722.4 provides that minors are considered emancipated while on active duty with the U.S. Armed Forces and may therefore authorize their own preventive health, medical, dental, and mental health care.

Minor in State Custody

Mich. Comp. Laws Ann. § 722.4 provides that minors who are in the custody of a law enforcement agency are considered emancipated for the purposes of consenting to certain types of health care if their parent or guardian cannot be promptly located; services the minor can consent to are routine, nonsurgical medical care, or emergency medical treatment.

Mich. Comp. Laws Ann. § 722.4 also provides that a minor who is a prisoner in the custody of the Department of Corrections or a probationer residing in a special alternative incarceration unit is considered emancipated for the purpose of consenting to preventive health care or medical care including surgery, dental care, or mental health care, except vasectomies or any procedure related to reproduction, if a parent or guardian cannot be promptly located. The emancipated status ends when the medical care ends or when the minor is released from custody, whichever occurs first.

Minor Consent—Services

Abortion

Abortion is legal and protected in Michigan. *Article 1, Section 28* of the Michigan Constitution, added on November 8, 2022, provides: “Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.”

Mich. Comp. Laws Ann. § 333.26103 incorporates the provisions of *Article 1, Section 28* into Michigan statute. For up to date information on the status of abortion protections and restrictions in Michigan, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

Minors may obtain an abortion, but *Mich. Comp. Laws Ann. §§ 722.901 through 722.908* provide that a person shall not perform an abortion on an unemancipated minor without first obtaining the written consent of the minor and one parent or guardian. The law includes a judicial bypass, a medical emergency exception, and special provisions related to sexual abuse. For up to date information on parent involvement and judicial bypass, find the “under age...” section on your state’s link in [If When How’s Abortion Laws by State](#).

In 2001 *Mich. Op. Att’y Gen. 7077*, the Michigan Attorney General determined that the use of mifepristone to terminate a pregnancy constitutes an abortion for purposes of the parental consent law.

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 family planning services or contraceptive care. In 1980, the Sixth Circuit Court of Appeals ruled in *Doe v. Irwin*, 615 F.2d 1162, 1169 (6th Cir. 1980) that the distribution of contraceptives to minors without notice to parents by a family planning center under contract with the Michigan Department of Public Health did not infringe the constitutional rights of parents.

In 1993, the Michigan Attorney General confirmed that provision of contraceptives to minors without parental consent or notification in Title X funded sites reflected current law at that time. Letter from Stanley D. Steinhorn, Assistant Attorney General of Michigan, to Hon. John Pridnia, State Senator, Michigan Legislature, RE: Providing Contraceptives to Minors – Parental Notification/ Consent,” October 4, 1993.

Article 1, Section 28 of the Michigan Constitution, added on November 8, 2022, provides: “Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.” *Mich. Comp. Laws Ann. § 333.26103* incorporates the provisions of *Article 1, Section 28* into Michigan statute. How implementation of *Article 1, Section 28* and *Mich. Comp. Laws Ann. § 333.26103* will affect consent to specific health services for minors remains to be determined.

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

Mich. Comp. Laws Ann. § 330.1707 provides that a minor age 14 or older may request and receive mental health services on an outpatient basis, excluding pregnancy termination referral services and the use of psychotropic drugs. A mental health professional may provide these services without the consent or knowledge of the minor’s parent or guardian. Services under this section are limited to 12 sessions or 4 months per request for services. After this point, the mental health professional shall terminate the services or, with the minor’s consent, notify the parent or guardian to obtain consent to provide further services.

Pregnancy-Related Care

Mich. Comp. Laws Ann. § 333.9132 provides that a minor may consent to prenatal and pregnancy related health care and the consent of no other person is required. As used in this section, “health care” means only treatment or services intended to maintain the life and improve the health of both the minor and the minor’s child or fetus.

Article 1, Section 28 of the Michigan Constitution, added on November 8, 2022, provides: “Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility 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

Mich. Comp. Laws Ann. § 333.21527 provides that if an individual alleges to a physician or other member of the attending or admitting staff that within the preceding 120 hours the individual has been the victim of criminal

sexual misconduct, the attending health care personnel responsible for examining or treating the individual immediately shall inform the individual of the availability of a sexual assault evidence kit and, with the consent of the individual, shall perform the procedures required by the sexual assault evidence kit. For the purposes of this section, the administration of a sexual assault evidence kit is not a medical procedure.

Sexually Transmitted Infection/Disease/HIV Care

Mich. Comp. Laws Ann. §§ 333.5127 provides that consent to the provision of medical or surgical care, treatment, or services by a hospital, clinic, or physician executed by a minor who is or professes to be infected with a sexually transmitted infection or HIV is valid and binding as if the minor had achieved the age of majority.

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

Mich. Comp. Laws Ann. § 330.1264 provides that a minor who is or professes to be an individual with a substance

use disorder may give a valid and binding consent for “substance use disorder related medical or surgical care,” treatment, or services by a hospital, clinic, or health professional and the consent of any other person, including a parent or guardian, is not necessary to authorize the services.

Mich. Comp. Laws Ann. § 330.1265 provides that a “program” may perform substance use disorder treatment and rehabilitation services when requested by the parent or a person in loco parentis to a minor without the minor’s consent if the minor is less than 14 years. If the minor does not consent, *Mich. Comp. Laws Ann §§ 330.1265 – 1268* contain detailed procedures for determining whether the services are necessary and may be provided over the objection of the minor. *Mich. Comp. Laws Ann. § 330.1265* provides that psychotropic drugs may not be used on a minor unless the minor consents or the court orders the use of drugs at a hearing.

“Program,” for this purpose, is defined as a hospital, clinic, organization, or health professional licensed to provide substance use disorder services.

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

Mich. Comp. Laws Ann. §§ 333.26261 – 333.26271 comprise the Medical Records Access Act. *Mich. Comp. Laws Ann. § 333.26265* provides that except as otherwise provided by law or regulation, a patient or the patient’s

authorized representative has the right to examine or obtain the patient’s medical record.

Mich. Comp. Laws Ann. § 333.26263 provides that “patient” for this purpose means an individual who receives or has

received health care from a health care provider or health facility and that “patient” includes a guardian, if appointed, and a parent, guardian, or person acting in loco parentis, if the individual is a minor, unless the minor lawfully obtained health care without the consent or notification of a parent, guardian, or other person acting in loco parentis, in which case the minor has the exclusive right to exercise the rights of a patient under this act with respect to medical records relating to that care.

Mich. Comp. Laws Ann. § 333.26265 provides that where a parent or guardian has a right to examine or obtain a minor’s record, if the health care provider or health facility determines that disclosure of the requested medical record to the minor’s guardian or parent is likely to have an adverse effect on the patient, the health care provider or health facility shall provide a clear statement supporting that determination and provides the medical record to another health care provider, health facility, or legal counsel designated by the patient or their authorized representative.

See **Appendix H** for information about minors’ rights under the HIPAA Privacy Rule to access their own health records when they are authorized to consent for 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

Emancipated Minors

Mich. Comp. Laws Ann. § 722.4e provides that emancipated minors have the right to authorize their own preventive health, medical, dental, and mental health care without parental knowledge.

Mental Health

Mich. Comp. Laws Ann. § 330.1707 provides that when a minor age 14 or older receives mental health services on an outpatient basis, the minor’s parent or guardian shall not be informed of the services without the minor’s consent, unless the mental health professional determines that a “compelling need for disclosure exists based on a

substantial probability of harm to the minor or other persons, and if the minor is notified of the mental health professional’s intent to inform the minor’s parent, guardian, or person in loco parentis.”

Mich. Comp. Laws Ann. § 330.1707 also requires that “[s]ervices provided to a minor under this section shall, to the extent possible, promote the minor’s relationship to the parent, guardian, or person *in loco parentis*, and shall not undermine the values that the parent, guardian, or person *in loco parentis* has sought to instill in the minor.”

Pregnancy-Related Care

Mich. Comp. Laws Ann. § 333.9132 provides that before providing prenatal and pregnancy related health care to a minor or health care to a minor’s child, a health facility or agency or a health professional shall inform the minor that the putative father of the child or the minor’s spouse, parent, guardian, or person *in loco parentis* may be notified for medical reasons at the discretion of the provider. For medical reasons, the treating physician, and on the advice and direction of the treating physician, a member of the medical staff of a health facility or agency or other health professional may, but is not obligated to, inform the putative father of the child or the spouse, parent, guardian, or person *in loco parentis* as to the health care given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information. At the initial visit to the health facility or health professional, permission shall be requested of the minor to contact the minor’s parents for any additional medical information which may be necessary or helpful to the provision of proper health care.

Sexually Transmitted Infection/HIV

Mich. Comp. Laws Ann. § 333.5127 provides that when a minor consents for medical or surgical care or treatment for a sexually transmitted infection or HIV, for medical reasons, the health care provider is permitted but not required to inform the spouse, parent or guardian of the treatment given or needed. The information may be given to or withheld from these persons without the minor’s consent and even over the express refusal of the minor.

Substance Use Disorder

Mich. Comp. Laws Ann. § 330.1264 provides that when a minor consents for substance use disorder related medical or surgical care, treatment, or services by a hospital, clinic, or health professional, for medical reasons “the treating physician, and, on the advice and direction of the treating physician, a member of the medical staff of a hospital or clinic or other health professional, may, but is not obligated to, inform the spouse, parent, guardian, or person in loco parentis as to the treatment given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information.”

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.

Care in Certain Settings, Limits

Mich. Comp. Laws Ann. § 380.1507(7) provides that family planning drugs or devices may not be dispensed or distributed in a public school or on public school property.

“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

For discussion of implied consent in cases of emergency, see *Franklyn v. Peabody*, 249 Mich 363 (1930), *Banks v. Wittenberg*, 82 Mich App 274 (1978).

Financial Responsibility

Mich. Comp. Laws Ann. § 722.4e provides that emancipated minors have the right to authorize their own preventive health, medical, dental, and mental health care without parental liability.

Mich. Comp. Laws Ann. § 333.5127 provides that when a minor consents for medical or surgical care or treatment for a sexually transmitted infection or HIV, a spouse, parent, guardian, or person *in loco parentis* of a minor is not financially responsible for surgical care, treatment, or services provided.

Mich. Comp. Laws Ann. § 722.4(d) provides that when a minor consents to routine, nonsurgical medical care or emergency medical treatment while in the custody of a law enforcement agency, the minor or the minor's parent remain responsible for the cost of any medical care or treatment.

Mich. Comp. Laws Ann. § 330.1264 provides that when a minor consents for substance use disorder related medical or surgical care, treatment, or services by a hospital, clinic, or health professional, a spouse, parent, guardian, or person *in loco parentis* of a minor is not legally responsible for the services provided.

Mich. Comp. Laws Ann. § 330.1707 provides that when a minor age 14 or older requests and receives mental health services on an outpatient basis without the consent of the minor's parent or guardian, the parent or guardian is not liable for costs of treatment.

Gender Affirming Care

There are no restrictions on access to gender affirming care in Michigan law as of May 2024.

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.

Minor Parent, Consent for Child's Care

Mich. Comp. Laws Ann. § 330.9132 provides that if a minor consents to the provision of health care for a child of the minor, the consent shall be valid and binding as if the minor had achieved majority.

Reproductive Freedom

Article 1, Section 28 of the Michigan Constitution provides: "Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care." *Mich. Comp. Laws Ann. § 333.26103* incorporates the provisions of *Article 1, Section 28* into Michigan statute.

Shield Laws

Both *Article 1, Section 28* of the Michigan Constitution and *Mich. Comp. Laws Ann. § 333.26103* provide: "The state shall not penalize, prosecute, or otherwise take adverse action against an individual based on their actual, potential, perceived, or alleged pregnancy outcomes, including but not limited to miscarriage, stillbirth, or abortion. Nor shall the state penalize, prosecute, or otherwise take adverse action against someone for aiding or assisting a pregnant individual in exercising their right to reproductive freedom with their voluntary consent."

Resources

Michigan Statutes <https://www.legislature.mi.gov/>

Michigan Administrative Rules <https://www.michigan.gov/lara/bureau-list/moahr/admin-rules>

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

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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

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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