

MISSISSIPPI

Minor Consent and Confidentiality

A Compendium of State and Federal Laws

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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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MISSISSIPPI

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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
- S** **F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- S** **F** Pregnancy Related Care
- S** Reportable, Communicable, Infectious Disease Care
- 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
- Minor in Armed Forces
- Minor Living Apart from Parent/Guardian
- Minor Parent
- Minor in State Custody
- Pregnant Minor

Other

- S** Emergency Care
- S** Financial Responsibility
- S** Gender Affirming Care, Restriction
- S** Minor Parent, Consent for Child's Care
- S** **F** Research Participation

Key

- S** State law found⁴
- 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 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

Miss. Code Ann. § 1-3-27 provides that in general a “minor... except as otherwise provided by law, shall include any person, male or female, under twenty-one (21) years of age. If a statute refers to the ability to enter into a contract affecting personal property or real property, ‘minor’ shall mean any person, male or female, under eighteen (18) years of age.”

Miss. Code Ann. § 41-41-203 defines an adult, for purposes of the Uniform Health Care Decisions Act, as any person 18 years of age or older.

Emancipation

Miss. Code Ann. §§ 93-19-1 – 93-19-9 specify a legal process for and authorize a court to enter a decree for the partial or general removal of the disability of age to enable a minor to act as if he or she had attained majority status.

In the Uniform Health Care Decisions Act, *Miss. Code Ann. § 41-41-203* defines an emancipated minor as “an individual under the age of eighteen (18) years who: (i) Is or has been married; (ii) Has been adjudicated generally emancipated by a court of competent jurisdiction; or (iii) Has been adjudicated emancipated for the purpose of making health-care decisions by a court of competent jurisdiction.” *Miss. Code Ann. § 41-41-203* defines “health care” as “any care, treatment, service, or procedure to maintain, diagnose,

or otherwise affect an individual’s physical or mental condition.”

Minor Marriage

Miss. Code Ann. § 93-1-5 provides: “Every male who is at least seventeen (17) years old and every female who is at least fifteen (15) years old shall be capable in law of contracting marriage. However, males and females under the age of twenty-one (21) years must furnish the circuit clerk satisfactory evidence of consent to the marriage by the parents or guardians of the parties.”

The statute also provides: “If the male applicant is under seventeen (17) years of age or the female is under fifteen (15) years of age, and satisfactory proof is furnished to the judge of any circuit, chancery or county court that sufficient reasons exist and that the parties desire to be married to each other and that the parents or other person in loco parentis of the person or persons so under age consent to the marriage, then the judge of any such court in the county where either of the parties resides may waive the minimum age requirement and by written instrument authorize the clerk of the court to issue the marriage license to the parties if they are otherwise qualified by law. Authorization shall be a part of the confidential files of the clerk of the court, subject to inspection only by written permission of the judge.”

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 Status**Emancipated Minor**

No statute expressly authorizes emancipated minors to consent for health care generally. However, *Miss. Code Ann. § 41-41-205* allows emancipated minors to give individual

instructions about their own health care under the Uniform Health Care Decisions Act.

Miss. Code Ann. § 93-19-9 allows emancipated minors to do the acts specified in a court decree partially or fully removing the disabilities of minority.

Married Minor

No statute expressly authorizes married minors to consent for health care generally. However, *Miss. Code Ann. § 41-41-203* provides that minors who are or have been married are emancipated for purposes of the Uniform Health Care Decisions Act.

Minor Consent—Services

Abortion

Abortion is banned in Mississippi with limited exceptions. *Miss. Code Ann. § 41-41-45* bans abortion except to save the life of the pregnant person or in cases of rape that have been reported to law enforcement. Mississippi law contains other restrictions and gestational limits on abortion that have not been repealed and have been the subject of litigation. *For up to date information on the status of abortion restrictions in Mississippi, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#). These laws are changing rapidly, so consultation with counsel is also essential.*

Within the limited exceptions in which abortion is legal, *Miss. Code Ann. §§ 41-41-51 – 41-41-63* provide that an unmarried, unemancipated minor under age 18 may not obtain an abortion without the written consent of both parents or a legal guardian, except in specified circumstances when the consent of one parent is sufficient. The law includes a judicial bypass, a medical emergency exception, and special provisions for cases of incest. *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](#).*

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

Miss. Code Ann. § 41-42-7 provides that contraceptive supplies and information may be furnished by physicians to any minor who is a parent, or who is married, or who has parental consent, or who has been referred for such service by a physician, clergyman, family planning clinic, a school, or a state agency.

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 a discussion of contraception and the U.S. Constitution.

Outpatient Mental Health Care

Miss. Code Ann. § 41-41-14 provides that any physician or psychologist who in the exercise of due care consults with or prescribes medication for a minor who is age 15 or older for mental and emotional problems caused by or related to alcohol or drugs is under no obligation to obtain spouse, parent, or guardian consent.

Pregnancy-Related Care

Miss. Code Ann. § 41-41-3 provides: “Any female regardless of age or marital status, is empowered to give consent for herself in connection with pregnancy or childbirth.”

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

Reportable, Communicable, Infectious Disease Care

Miss. Code Ann. § 41-41-16 provides: “A hospital or physician, and employees of such hospital or physician, may conduct an acquired immune deficiency syndrome (AIDS)/human immunodeficiency virus (HIV) antibody test or appropriate tests for any other infectious diseases without specific consent for such tests if the hospital or physician determines that the test is necessary for diagnostic purposes to provide appropriate care or treatment to the person to be tested, or in order to protect the health and safety of other patients or persons providing care and treatment to the person to be tested. The person who is to be tested shall be informed of the nature of the test which is to be conducted.”

Sexually Transmitted Infection/Disease/HIV Care

Miss. Code Ann. § 41-41-13 provides that any physician or any nurse practitioner who in the exercise of due care renders medical care to a minor for treatment of a “venereal disease” is under no obligation to obtain the consent of a parent or guardian, or to inform the parent or guardian of this treatment.

Miss. Code Ann. § 41-41-16 provides: “A hospital or physician, and employees of such hospital or physician, may conduct an acquired immune deficiency syndrome (AIDS)/human immunodeficiency virus (HIV) antibody test or appropriate tests for any other infectious diseases without specific consent for such tests if the hospital or physician determines that the test is necessary for diagnostic purposes to provide appropriate care or treatment to the person to be tested, or in order to protect the health and safety of other patients or persons providing care and treatment to the person to be tested. The person who is to be tested shall be informed of the nature of the test which is to be conducted.”

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

Miss. Code Ann. § 41-41-14 provides that any physician or psychologist who in the exercise of due care consults with or prescribes medication for a minor who is age 15 or older for mental and emotional problems caused by or related to alcohol or drugs is under no obligation to obtain spouse, parent, or guardian consent. The minor may consent for this treatment as if the minor had reached the age of majority.

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

Miss. Code Ann. § 41-41-11 provides that any persons who are authorized and empowered to consent for surgical or medical treatment or procedures for themselves may also waive the medical privilege for themselves and consent for the disclosure of medical information and the making and delivery of copies of medical or hospital records.

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

Medical Records

Miss Code. Ann. § 41-9-69 provides that hospital records in their original, microfilmed, or similarly reproduced form shall be provided upon request to a parent or guardian of an unemancipated minor under eighteen (18) without the permission of such unemancipated minor.

Miss Code Ann. § 73-9-3 provides that the State Board of Dental Examiners has the duty to adopt reasonable rules and regulations providing for dentist practice records retention including regulations that include at a minimum, that dental records in their original, microfilmed, or similarly reproduced form shall be provided upon request to a parent or guardian of an unemancipated minor under eighteen (18) without the permission of such unemancipated minor.

Miss. Code Ann. § 73-43-11 provides that the State Board of Medical Licensure shall have the responsibility to adopt reasonable rules and regulations providing for physician practice records retention under the following minimum standards: medical records in their original, microfilmed, or similarly reproduced form shall be provided upon request to a parent or guardian of an unemancipated minor under eighteen (18) without the permission of such unemancipated minor.

Sexually Transmitted Disease/Infection/HIV

Miss. Code Ann. § 41-41-13 provides that any physician or any nurse practitioner who renders medical care to a minor for treatment of a “venereal disease” is under no obligation to obtain the consent of a parent or guardian, or to inform the parent or guardian of this treatment.

Substance Use

Miss. Code Ann. § 41-41-14 provides that when a physician or psychologist consults with or prescribes medication for a minor who is age 15 or older for mental and emotional problems caused by or related to alcohol or drugs based on the consent of the minor, the provider may, but is not obligated to, inform the parent or guardian of the minor as to the treatment given or needed without the consent of the minor and even over the express refusal of the minor.

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.

Emergency Care

Miss. Code Ann. § 41-41-7 provides that consent for surgical or medical treatment or procedures, suggested, recommended, prescribed or directed by a duly licensed physician, will be implied where an emergency exists if there has been no protest from a person authorized and empowered to consent, or there has been a subsequent change in the person affected that is material and morbid, and there is no one immediately available who is authorized, empowered, willing, and capacitated to consent. An emergency for this purpose is defined as a situation where, in competent medical judgment, the proposed surgical or medical treatment or procedures are immediately or imminently necessary and any delay occasioned by an attempt to obtain consent would reasonably jeopardize the life, health or limb of the person affected, or would reasonably result in disfigurement or impairment of faculties.

Gender Affirming Care, Restriction

In 2023, Mississippi passed the “Regulate Experimental Adolescent Procedures” (REAP) Act which include numerous restrictions on gender affirming care, referred to

as “gender transition procedures,” including but not limited to the following. *Miss. Code Ann. § 41-141-3* defines gender transition procedures to include puberty-blocking drugs, cross-sex hormones, and gender reassignment surgery, each of which is also defined in *§ 41-141-3*. *Miss. Code Ann. §§ 73-25-29 and 73-25-33* exclude gender transition procedures from the practice of medicine and subject physicians to potential loss of license for violations of the REAP Act. See [HB 1125](#) for more about the provisions of the REAP Act.

For up to date information on the status of protections for 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](#).

Minor Parent, Consent for Child’s Care

Miss. Code Ann. § 41-41-3 provides that consent for surgical or medical treatment or procedures for an unemancipated minor may be given by the minor’s parent. This section does not exclude parents who are minors.

Research Participation

Miss. Code Ann. § 41-41-17 provides: "(1) Any . . . emancipated minor, as defined in Section 41-41-203(e) may consent to participate as a subject in research if that research is conducted in accordance with federal law (Title 45 CFR Part 46: Protection of Human Subjects). (2) Unemancipated minors

may participate as subjects in research, if that research is conducted in accordance with federal law (Title 45 CFR Part 46: Protection of Human Subjects)." *45 CFR § 46.408* permits waiver of the requirement of parental permission for unemancipated minors to participate in research in specified circumstances.

Resources

Mississippi Code <https://www.sos.ms.gov/communications-publications/mississippi-law>

Mississippi Administrative Code <https://www.sos.ms.gov/adminsearch/default.aspx>

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