

NEW JERSEY

# Minor Consent and Confidentiality

## A Compendium of State and Federal Laws

National Center  
for Youth Law

[teenhealthlaw.org/compendium](https://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.

### Recommended Citation

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### Disclaimer

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# NEW JERSEY

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## Quick Guide

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- S** Minor Marriage

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- S** "Conversion Therapy," Ban<sup>4</sup>
- Gender Affirming Care
- S** Minor Parent, Consent for Child's Care
- S** Reproductive Freedom
- S** Shield Laws

## Key

- S** State law found<sup>5</sup>
- F** Federal/other law may apply

<sup>1</sup> 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.

<sup>2</sup> 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).

<sup>3</sup> This category includes parental involvement laws.

<sup>4</sup> This category includes statutes or case law that ban conversion therapy or prohibit banning of conversion therapy.

<sup>5</sup> 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**

*N.J. Stat. Ann. §§ 9:17B-1 and 9:17B-3* provide that the age of majority is 18.

**Emancipation**

No statute was found in New Jersey law expressly defining emancipated minor in general or outlining a legal process by which a minor may emancipate; however, some statutes reference emancipation.

In the context of abortion consent, *N.J. Stat. Ann. § 9:17A-1.3* provides that “unemancipated minor” means a female under the age of 18 years who is unmarried and is not currently serving active duty in one of the military services of the United States of America or a female for whom a guardian has been appointed pursuant to *N.J. Stat. Ann. § 3B-12.25* because of a finding of incompetency. For the purposes of this act, pregnancy does not emancipate a female under the age of 18 years.

For purposes of the “Scattered Site AIDS Permanent Housing Program,” *N.J. Stat. Ann. § 55:14L-2* provides that an “emancipated minor” means a person who is under 18 years of age, but who has been married, has entered military service, has a child or is pregnant, or has previously been declared by a court or an administrative agency to be emancipated.

For purposes of the “Prevention of Domestic Violence Act of 1991,” *N.J. Stat. Ann. § 2C:25-19* provides that an “emancipated minor” means a person who is under 18 years of age but who has been married, has entered military service, has a child or is pregnant or has been previously declared by a court or an administrative agency to be emancipated.

**Minor Marriage**

*N.J. Stat. Ann. § 37:1-6* prohibits issuance of a marriage or civil union license to a minor under age 18 years, effective June 22, 2018.

## 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****Married Minor**

*N.J. Stat. Ann. § 9:17A-1* provides that a married minor may consent for medical or surgical care and procedure provided by a hospital or physician and for such purposes she is deemed to have the same legal capacity to act and shall have the same powers and obligations as has a person of legal age.

**Minor Parent**

*N.J. Stat. Ann. § 9:17A-1* provides that married or pregnant minors may consent for medical or surgical care and procedure by a hospital or physician for themselves and for their child.

**Pregnant Minor**

*N.J. Stat. Ann. § 9:17A-1* provides that a pregnant minor may consent to medical and surgical care and procedure by a hospital or physician, and for such purposes is deemed to have the same legal capacity to act and shall have the same powers and obligations as has a person of legal age.

**Minor Consent—Services****Abortion**

Abortion is currently legal and protected in New Jersey. New Jersey laws include some restrictions that have been held unconstitutional under the New Jersey Constitution

but have not been repealed. In 2022, the state enacted *N.J. Stat. Ann. § 10:7-2*, which provides: “Every individual present in the State, including, but not limited to, an individual who is under State control or supervision, shall have the fundamental right to: choose or refuse contraception or sterilization; and choose whether to carry a pregnancy, to give birth, or to terminate a pregnancy. The New Jersey Constitution recognizes the fundamental nature of the right to reproductive choice, including the right to access contraception, to terminate a pregnancy, and to carry a pregnancy to term, shall not be abridged by any law, rule, regulation, ordinance, or order issued by any State, county, or local governmental authority. Any law, rule, regulation, ordinance, or order, in effect on or adopted after the effective date of this act<sup>1</sup>, that is determined to have the effect of limiting the constitutional right to freedom of reproductive choice and that does not conform with the provisions and the express or implied purposes of this act, shall be deemed invalid and shall have no force or effect.” *For up to date information on the status of abortion restrictions and protections, including shield laws, in New Jersey, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).*

Minors may consent for abortion. In *Planned Parenthood of Cent. N. J. v. Farmer*, 762 A.2d 620 (N.J. 2000), the New Jersey Supreme Court ruled that *N.J. Stat. Ann. §§ 9:17A-1.1 - 9:17A-1.12*, the state’s Parental Notification for Abortion Act, was unconstitutional under the equal protection principles of the New Jersey Constitution. The law is currently not being enforced.

*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

*N.J. Stat. Ann. § 10:7-2* provides: “Every individual present in the State, including, but not limited to, an individual who is under State control or supervision, shall have the fundamental right to: choose or refuse contraception or sterilization[.]”

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

*N.J. Stat. Ann. § 9:17A-4* provides that minors age 16 years or older who believe they are in need of behavioral health care services for the treatment of mental illness or emotional disorders, the minor’s consent to “temporary outpatient services,” excluding the use or administration of medication, under the supervision of a licensed physician,

licensed advanced practice nurse, or an individual licensed to provide professional counseling under Title 45 of the Revised Statutes, including, but not limited to, a psychiatrist, licensed practicing psychologist, certified social worker, licensed clinical social worker, licensed social worker, licensed marriage and family therapist, certified psychoanalyst, or licensed psychologist, or in an outpatient health care facility licensed pursuant to *N.J. Stat. Ann. §§ 26:2H-1 et seq.*, is valid and binding as if the minor had achieved the age of majority. Any such consent shall not be subject to later disaffirmance by reason of minority.

*N.J. Stat. Ann. § 9:17A-4.1* provides that *N.J. Stat. Ann. § 9:17A-4* “shall not be interpreted to interfere with any parental rights to place a child in treatment on a voluntary or involuntary basis under applicable State law” and that treatment programs shall not be required to admit minors. Treatment programs may establish their own admission and reimbursement criteria which may include parental notification and involvement.

*N.J. Stat. Ann. § 9:17A-4.2* provides that the Department of Children and Families shall prepare and make available on the department’s Internet website, in an easily printable format, information on the behavioral health provisions of *N.J. Stat. Ann. § 9:17A-4.1*, including, but not limited to, the provisions which specify that a minor’s consent to treatment under the supervision of a licensed physician, an advanced practice nurse, or an individual licensed to provide professional counseling under Title 45 of *N.J. Revised Statutes* is to be considered valid and binding as if the minor had achieved the age of majority, and the provisions which specify that treatment consented to by a minor is to be considered confidential information.

## Pregnancy-Related Care

*N.J. Stat. Ann. § 9:17A-1* provides that, notwithstanding any other provision of the law, an unmarried, pregnant minor may give consent to the furnishing of hospital, medical and surgical care related to her pregnancy or her child.

*N.J. Stat. Ann. § 10:7-2* provides: “Every individual present in the State, including, but not limited to, an individual who is under State control or supervision, shall have the fundamental right to...choose whether to carry a pregnancy, to give birth, or to terminate a pregnancy.”

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

*N.J. Stat. Ann. § 9:17A-4* provides that minors who, in the judgment of the treating health care professional, appear to have been sexually assaulted may consent to the provision of medical or surgical care or services, or a “forensic sexual assault examination” by a hospital or public clinic, or health care professional, Health care professional includes a physician, physician assistant, nurse, or other health

care professional registered under *Title 45 of N.J. Revised Statutes*. Any such consent shall be valid and binding as if the minor had achieved the age of majority and shall not be subject to later disaffirmance by reason of minority.

### **Sexually Transmitted Infection/Disease (STI/STD)**

*N.J. Stat. Ann. § 9:17A-4* provides that minors who have or believe they may have a sexually transmitted infection, or who are at least 13 years of age and have or believes they may be infected with the human immunodeficiency virus or have acquired immune deficiency syndrome, may consent to medical or surgical care or services or a forensic sexual assault examination by a hospital, public clinic, or health care professional. Health care professional includes a physician, physician assistant, nurse, or other health care professional registered under *Title 45 of N.J. Revised Statutes*. Any such consent shall be valid and binding as if the minor had achieved the age of majority and shall not be subject to later disaffirmance by reason of minority.

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**

*N.J. Stat. Ann. § 9:17A-4* provides that when minors believe that they are “adversely affected by a substance use disorder involving drugs or have a substance use disorder involving drugs” as defined in *N.J. Stat. Ann. § 24:21-2.2* or are adversely affected by an alcohol use disorder or have an alcohol use disorder as defined in *N.J. Stat. Ann. § 26:2B-8.2*, the minor’s consent to treatment under the supervision of a physician licensed to practice medicine, or an individual licensed or certified to provide treatment for an alcohol use disorder, or in a facility licensed by the State to provide for the treatment of an alcohol use disorder, shall be valid and binding as if the minor had achieved the age of majority and shall not be subject to later disaffirmance by reason of minority.

*N.J. Stat. Ann. § 9:17A-4.1* provides that this “act shall not be interpreted to interfere with any parental rights to place a child in treatment on a voluntary or involuntary basis under applicable State law” and that treatment programs shall not be required to admit minors. Treatment programs may establish their own admission and reimbursement criteria which may include parental notification and involvement.

## **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**

#### **AIDS/HIV**

*N.J. Stat. Ann. §§ 26:5C-7 and 26:5C-8* provide that health records which contain identifying information about a

person suspected of having AIDS or HIV are confidential and may only be disclosed with the prior written informed consent of the person, except in enumerated circumstances. *N.J. Stat. Ann. § 26:5C-13* provides that when consent is required for disclosure of the record of a person under age 12 who has or is suspected of having



AIDS or HIV infection, consent shall be obtained from the parent, guardian, or other individual authorized under State law to act in the minor's behalf.

### Health Maintenance Organizations

*N.J. Stat. Ann. § 26:2J-27* provides that “data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person, or from any provider, by any health maintenance organization shall be held in confidence and shall not be disclosed” except upon the express consent of the enrollee or applicant or for other specified purposes.

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

### All Minor Consent Services

*N.J. Stat. Ann. § 9:17A-5* provides that upon the advice and direction of a treating physician or, if more than one, any one of them, a member of the medical staff of a hospital, public clinic, or physician licensed to practice medicine, may, but shall not be obligated to, inform the spouse, parent, custodian or guardian of any such minor as to the treatment given or needed, and such information may be given to, or withheld from the spouse, parent, custodian or guardian without the consent of the minor patient and even over the express refusal of the minor patient to the providing of such information.

### Behavioral Health/Mental Health

*N.J. Stat. Ann. § 9:17A-4* provides that treatment for behavioral health care services for mental illness or emotional disorders consented to by a minor shall be considered confidential information between the physician, the individual licensed to provide professional counseling, the advanced practice nurse, or the health care facility, as appropriate, and the patient, and neither the minor nor the minor's physician, professional counselor, nurse, or

outpatient health care facility, as appropriate, shall be required to report such treatment when it is the result of voluntary consent, except as otherwise required by law. However, *N.J. Stat. Ann. § 9:17A-4.1* provides that *N.J. Stat. Ann. § 9:17A-4* “shall not be interpreted to interfere with any parental rights to place a child in treatment on a voluntary or involuntary basis under applicable State law” and that treatment programs shall not be required to admit minors. Treatment programs may establish their own admission and reimbursement criteria which may include parental notification and involvement.

*N.J. Stat. Ann. § 45:14B-36* provides that a valid authorization to disclose protected information held by a psychologist must be signed “by the patient or the person authorizing the disclosure. If the patient is adjudicated incapacitated or is deceased, the authorization shall be signed by the patient's legally authorized representative. When the patient is more than 14 years of age but has not yet reached majority, the authorization shall be signed by the patient and by the patient's parent or legal guardian. When the patient is less than 14 years of age, the authorization shall be signed only by the patient's parent or legal guardian.” *N.J. Admin. Code § 13:42-8.6* provides, however, the psychologist is not required to release to a minor's parent or guardian records or information relating to the minor's sexually transmitted disease, termination of pregnancy or substance abuse or any other information that in the reasonable exercise of the licensee's professional judgment may adversely affect the minor's health or welfare.

*N.J. Admin. Code § 13:42-8.5* provides that a licensee of the Board of Psychological Examiners shall preserve the confidentiality of information in the course of the licensee's teaching, practice or investigation except in certain circumstances. *N.J. Admin. Code § 13:42-8.6* provides that this provision, as well as *N.J. Admin. Code §§ 13:42-8.3, and 8.4*, apply to the records of minors (i.e. the rights of access to copy of client record, access by a managed health care plan to information in client record, and confidentiality).

### Sexual Assault

*N.J. Stat. Ann. § 9:17A-4* provides that in the case of a minor who appears to have been sexually assaulted, the minor's parents or guardian shall be notified immediately, unless the treating healthcare professional believes that it is in the best interests of the patient not to do so. Inability of the treating health care professional, hospital, or clinic to locate or notify the parents or guardian shall not preclude the provision of any emergency or medical or surgical care to the minor or the performance of a forensic sexual assault examination on the minor.

### Substance Use

*N.J. Stat. Ann. § 9:17A-4* provides that treatment for an alcohol use disorder or a substance use disorder involving drugs that is consented to by a minor shall be considered confidential information between the physician, the treatment provider, or the treatment facility, as appropriate,



and the patient, and neither the minor nor the minor's physician, treatment provider, or treatment facility, as appropriate, shall be required to report such treatment when it is the result of voluntary consent, except as may otherwise be required by law. However, *N.J. Stat. Ann. § 9:17A-4.1* provides that *N.J. Stat. Ann. § 9:17A-4* "shall not be interpreted to interfere with any parental rights to place a child in treatment on a voluntary or involuntary basis under applicable State law" and that treatment programs shall not be required to admit minors. Treatment programs may establish their own admission and reimbursement criteria which may include parental notification and involvement.

## 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

*N.J. Stat. Ann. §26:6-80* provides that a minor age 14 years or older, may make an anatomical gift of the minor's body or body part during the life of the minor for the purpose of transplantation, research, or education whether or not the minor is emancipated.

### Constitution

*N.J. Const., Art. I, Para. 1*, provides: "All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness." This provision has been interpreted as protecting abortion rights in *Right to Choose v. Byrne*, 450 A.2d 925 (1982) and *Planned Parenthood of Cent. New Jersey v. Farmer*, 762 A.2d 620 (1999).

### "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.

### Gender Affirming Care

There are no restrictions on access to gender affirming care for minors in New Jersey law at this time.

For up to date information on the status of protections and restrictions on gender affirming care for minors, including shield laws, 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

*N.J. Stat. Ann. § 9:17A-1* provides that married or pregnant minors may consent for medical or surgical care and procedure by a hospital or physician for their child.

## Reproductive Freedom

In 2022, the state enacted *N.J. Stat. Ann. § 10:7-2* which provides: “Every individual present in the State, including, but not limited to, an individual who is under State control or supervision, shall have the fundamental right to: choose or refuse contraception or sterilization; and choose whether to carry a pregnancy, to give birth, or to terminate a pregnancy. The New Jersey Constitution recognizes the fundamental nature of the right to reproductive choice, including the right to access contraception, to terminate a pregnancy, and to carry a pregnancy to term, shall not be abridged by any law, rule, regulation, ordinance, or order issued by any State, county, or local governmental authority. Any law, rule, regulation, ordinance, or order, in effect on or adopted after the effective date of this act, that is determined to have the effect of limiting the constitutional right to freedom of reproductive choice and that does not conform with the provisions and the express or implied purposes of this act, shall be deemed invalid and shall have no force or effect.”

## Shield Laws

New Jersey has passed a series of laws 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, assistance, or support for reproductive health care services that are permitted under the laws of the state and were provided in accordance with the applicable standard of

care. Examples of these laws are found at *N.J. Stat. Ann. §§ 2A:84A-22.18, 2A:84A-22.19, and 2A:160-14.1*.

In 2023, the New Jersey Governor signed Executive Order 326, which includes protections designed to shield health care providers when they legally provide gender affirming care services in the state and protect patients who receive this care. For purposes of this Executive Order, “gender affirming care” is defined to include “care that addresses a transgender or non-binary person’s physical, mental, and/or social health needs and that is designed to support and affirm a transgender or non-binary person’s gender identity, including, but not limited to, mental health or psychiatric care; surgery, hormone replacement therapy, and other nonsurgical treatments intended to align aspects of a person’s life with their gender identity; and other behavioral or medical interventions, treatments, and therapies designed to support and affirm an individual’s gender identity.” Read Executive Order 326 [here](#).

*For up to date information on the status of abortion protections including shield laws in all 50 states, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#)*

*For up to date information on shields laws for gender affirming care, see [Movement Advancement Project’s “Equality Maps: Bans on Best Practice Medical Care for Transgender Youth”](#)*

## Resources

**New Jersey Statutes** <https://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Publish:10.1048/Enu>

**New Jersey Administrative Code** <https://www.nj.gov/oal/rules/accessp/>

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