

NORTH CAROLINA

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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NORTH CAROLINA

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Quick Guide

See glossary for explanation of categories and definitions of terms.

General

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- S** Emancipation
- S** Minor Marriage

Minor Consent to Health Care—Services

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- S** **F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- S** **F** Pregnancy-Related Care
- S** Reportable, Communicable, Infectious Disease Care
- Sexual Assault Care
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- S** Emergency Care
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Parent, Consent for Child's Care
- S** Parent Consent for Treatment, Required

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

N.C. Gen. Stat. § 48A-2 provides that the age of majority is 18.

Emancipation

N.C. Gen. Stat. § 7B-3507 provides the rights and legal duties of a minor who has been emancipated by a court. See also *N.C. Gen. Stat. § 7B-3402*. *N.C. Gen. Stat. §§ 7B-3500 - 7B-3506* describe the criteria for emancipation of minors and the procedures for obtaining a court declaration of emancipation. *N.C. Gen. Stat. § 7B-3509* provides that a married minor is emancipated.

Minor Marriage

N.C. Gen. Stat. § 51-2 provides that unemancipated minors age 16 years or older are permitted to marry a person no more than four years older, with a court order or the written consent of a parent with full legal custody or guardian. *N.C. Gen. Stat. § 51-3* specifies the requirements for issuance of a court order. The provisions of these two sections that had allowed minors age 14 or 15 years to marry under specified circumstances were repealed by 2021 N.C. Sess. Laws 119.

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**

N.C. Gen. Stat. § 90-21.5 provides that emancipated minors may consent for any medical treatment, dental, and health services for themselves.

Married Minor

N.C. Gen. Stat. § 7B-3509 provides that a married minor is emancipated. *N.C. Gen. Stat. § 90-21.5* provides that emancipated minors may consent for any medical treatment, dental, and health services for themselves.

Minor in Armed Forces

N.C. Gen. Stat. § 7B-3402 provides that a minor serving in the Armed Forces of the United States is not under parental supervision and control. The section does not explicitly address consent for health care.

Minor Consent—Services**Abortion**

Abortion is legal in North Carolina, but there are many restrictions. For up to date information on the status of abortion restrictions in North Carolina, 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 *N.C. Gen. Stat. §§ 90-21.6 through 21.10* provide that an unemancipated minor who has not been married may not obtain an abortion without the written consent of the minor and a parent with custody, a parent with whom the minor is living, or legal guardian or custodian, or a grandparent with whom the minor has lived for at least six months immediately preceding the consent. The law includes a judicial bypass, a medical emergency exception, and an exception for rape or incest as determined by a court in a judicial bypass proceeding. 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

N.C. Gen. Stat. § 90-21.5 provides that a minor may give consent to a physician for medical health services for the prevention, diagnosis, and treatment of pregnancy, not including an abortion 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.C. Gen. Stat. § 90-21.5 provides that any minor may consent to a physician for medical health services for prevention, diagnosis, and treatment of emotional disturbance and also provides: “This section does not authorize . . . admission to a 24-hour facility licensed under Article 2 of Chapter 122C of the General Statutes except as provided in G.S. 122C-223. This section does not prohibit the admission of a minor to a treatment facility upon his own written application in an emergency situation as authorized by G.S. 122C-223.”

Pregnancy-Related Care

N.C. Gen. Stat. § 90-21.5 provides that a minor may give consent to a physician for medical health services for the prevention, diagnosis and treatment of pregnancy, excluding abortion and sterilization.

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

N.C. Gen. Stat. § 90-21.5 provides that any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis, and treatment of reportable diseases. N.C. Admin. Code tit. 10A, r. 41A.0101 lists diseases and conditions determined to be dangerous to the public health that are reportable. N.C. Admin. Code tit. 10A, r. 41A.0101 lists HIV and numerous STIs as reportable diseases.

N.C. Gen. Stat. § 130A-134 provides that the Commission for Public Health must create a list of reportable diseases. The full list created by the Commission for Public Health can be found at https://epi.dph.ncdhhs.gov/cd/lhds/manuals/cd/reportable_diseases.html.

N.C. Gen. Stat. § 90-21.5(a)(1) provides: “Notwithstanding any other provision of law to the contrary, a health care provider shall obtain written consent from a parent or legal guardian prior to administering any vaccine that has been granted emergency use authorization and is not yet fully approved by the United States Food and Drug Administration to an individual under 18 years of age.”

Sexually Transmitted Infection/Disease/HIV Care

N.C. Gen. Stat. § 90-21.5 provides that any minor may give consent to a physician for medical health services for prevention, diagnosis, and treatment of “venereal disease.”

N.C. Gen. Stat. § 90-21.5 provides that any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis, and treatment of reportable diseases. N.C. Admin. Code tit. 10A, r. 41A.0101 lists diseases and conditions determined to be dangerous to the public health that are reportable. N.C. Admin. Code tit. 10A, r. 41A.0101 lists HIV and numerous STIs as reportable diseases.

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

Substance Use Care

N.C. Gen. Stat. § 90-21.5 provides that any minor may consent to a physician for medical health services for prevention, diagnosis, and treatment of “abuse of controlled substances or alcohol” and also provides: “This section does not authorize . . . admission to a 24-hour facility licensed under Article 2 of Chapter 122C of the General Statutes except as provided in G.S. 122C-223. This section does not prohibit the admission of a minor to a treatment facility upon his own written application in an emergency situation as authorized by G.S. 122C-223.”

N.C. Gen. Stat. § 122C-223 provides that in an emergency situation, when the legally responsible person does not appear with the minor to apply for admission, a minor who is mentally ill or a substance abuser and in need of treatment may be admitted to a 24-hour facility upon the minor’s own written application.

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

Health Information Exchange

N.C. Gen. Stat. § 90-414.10 provides that an individual, as defined in HIPAA, 45 C.F.R. § 160.103, has the right to opt out, or rescind a decision to opt out, or having their protected health information, as defined in HIPAA, 45 C.F.R. § 160.103, from being shared with the Statewide Health Information Exchange.

Health Maintenance Organizations

N.C. Gen. Stat. § 58-67-180 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.

Pharmacy Records

N.C. Gen. Stat. § 90-85.36 provides that pharmacy records may only be provided to specified persons, including but not limited to: an emancipated minor patient for whom the prescription order was issued or a person who is the legally appointed guardian of that patient; an unemancipated minor patient for whom the prescription order was issued when the minor’s consent is sufficient to authorize treatment of the condition for which the prescription was issued; and a parent or person in loco parentis of an unemancipated minor patient for whom the prescription order was issued when the minor’s consent is not sufficient

to authorize treatment for the condition for which the prescription is issued.

Reportable Disease

N.C. Gen. Stat. § 130A-143 provides that information and records that identify a person who has or may have a disease that is required to be reported is confidential and shall not be released except under specified circumstances, including when: “Release is made of all or part of the medical record with the written consent of the person or persons identified or the person’s personal representative, as defined in 45 C.F.R § 164.502.”

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 H** for information about the HIPAA Privacy Rule and disclosure of information to parents and guardians.

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

N.C. Gen. Stat. § 90-21.4 provides that a physician providing health services to a minor based on the minor's consent shall not notify a parent, legal guardian, person standing *in loco parentis*, or a legal custodian without the permission of the minor, concerning the medical health services set out in N.C. Gen. Stat. § 90-21.5 unless the situation in the opinion of the attending physician indicates that notification is essential to the life or health of the minor. The limitation on notification does not apply when a parent has been granted specific authority in a custody order to consent to medical or psychiatric treatment. If a parent, legal guardian, person standing *in loco parentis*, or a legal custodian contacts the physician concerning the treatment or medical services being provided to the minor, the physician may give 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 H** for information about the HIPAA Privacy Rule and disclosure of information to parents and guardians.

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," Partial 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

N.C. Gen. Stat. § 90-21.1 provides that a physician may treat a minor without the consent of a parent, guardian, or person *in loco parentis* if the parent or guardian cannot be contacted with reasonable diligence during the time within which the minor needs to receive the treatment; or the minor's identity is unknown, or where the necessity for immediate treatment is so apparent that any effort to secure approval would delay the treatment so long as to endanger the life of the minor; or an effort to contact

the parent or guardian would result in a delay that would seriously worsen the physical condition of the minor. Physicians may also treat a minor without the consent of a parent, guardian, or person *in loco parentis* if the parents refuse to consent for a procedure and the delay to obtain a court order would endanger the life or seriously worsen the physical condition of the child; but in such a case, a second physician's opinion is required stating that treatment is necessary to prevent immediate harm to the child. In *Opinion of Attorney General to Mr. Ed McCleary, Staff Attorney, Mental Health Study Commission*, 47 N.C.A.G. 83 (1977), the North Carolina Attorney General found that the protections of N.C. Gen. Stat. § 90-21.1 extend to social workers and psychologists working under physicians.

N.C. Gen. Stat. § 90-21.2 defines the word "treatment" as used in § 90.21.1 as any medical procedure or treatment, including X rays, the administration of drugs, blood transfusions, use of anesthetics, and laboratory or other diagnostic procedures employed or ordered by a licensed

physician, is exercised with reasonable care, and is equal to the standards normally employed in the community.

N.C. Gen. Stat. § 90-21.3 adds any surgical procedure to the definition of “treatment” used in § 90-21.1, but requires a second opinion confirming that surgery is necessary as set out in § 90-21.1. *N.C. Gen. Stat. § 90-21.3* provides an exception to the requirement of a second opinion, if circumstances leave the surgeon no possibility of obtaining a second opinion, e.g. a rural community.

Gender Affirming Care, Restriction

N.C. Gen. Stat. § 90-21.151 provides that as of August 1, 2023, it shall be “unlawful for a medical professional to perform a surgical gender transition procedure on a minor or to prescribe, provide, or dispense puberty-blocking drugs or cross-sex hormones to a minor.” Notwithstanding this restriction, there are certain procedures that medical professionals may continue to offer minors with parent or guardian informed consent, including certain gender affirming services where the course of treatment began prior to August 1, 2023 and was still active as of that date, it is in the best interest of the minor to continue the services in the reasonable medical judgment of the medical professional, and the minor’s parents or guardians consent.

N.C. Gen. Stat. § 90-21.151 defines for this purpose “gender transition,” “surgical gender transition procedure,” “cross sex hormones,” “puberty blocking drugs,” “medical professional” and other key terms.

For additional analysis of the new rules, see [“New Law Impacting Gender Transition Health Care for Minors.”](#)

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

N.C. Gen. Stat. § 90-21.4 provides that a physician shall not be liable in a civil or criminal proceeding for providing health services to a minor without consent of a parent, legal guardian, person *in loco parentis*, or legal custodian under the terms of *Article 1-A of chapter 90*, including health services for pregnancy, venereal disease, reportable disease, abuse of controlled substances or alcohol, or emotional disturbance under *N.C. Gen. Stat. §§ 90.21.1–90-21.5*.

N.C. Gen. Stat. § 32A-33 allows any physician, dentist, or other health care provider involved in the health care of a minor to rely upon the authority of the agent named in a signed and acknowledged authorization to consent to health care for a minor in the absence of actual knowledge that the authorization has been revoked or is otherwise invalid. Any physician, dentist, or other health care provider

relying in good faith on the authority of an agent shall be protected from liability for actions taken pursuant to agent’s consent.

Minor Parent, Consent for Child’s Care

N.C. Gen. Stat. §§ 90-21.5 and 32A-30 provide that an emancipated minor may consent for any medical treatment, dental, and health services for their child.

Parent Consent for Treatment, Required

Enacted in 2023, *N.C. Senate Bill 49, S.L. 2023-106*, the Parents’ Bill of Rights, included wide-ranging provisions affecting the role of parents in their children’s upbringing, education, and health care; it added a new Part 3, “Parental Consent for Treatment” to *Article 1-A of Chapter 90*.

N.C. Gen. Stat. § 90-21.10B provides: “(a) Except as otherwise provided in this Article or by court order, a health care practitioner shall not provide, solicit, or arrange treatment for a minor child without first obtaining written or documented consent from that minor child’s parent. (b) Except as otherwise provided in this Article or by court order, a health care facility shall not allow treatment to be performed on a minor child in its facility without first obtaining written or documented consent from that minor child’s parent. (c) This section does not apply to services provided by a clinical laboratory unless the services are delivered through a direct encounter with the minor child at the clinical laboratory facility.”

N.C. Gen. Stat. § 90-21.10B provides that the statute’s parent consent requirements do not limit a minor’s ability to obtain minor consent services under *N.C. Gen. Stat. §§ 90-21.1, 90-21.3, 90-21.4, 90-21.5, 90-21.8, or § 90-21.9*.

N.C. Gen. Stat. § 90-21.10A contains definitions of “health care facility,” “health care practitioner,” “minor,” “parent,” and “treatment” for this purpose.

For analysis of *S.L. 22023-106* and its impact on minor consent, see:

[“What’s the Status of North Carolina’s Minor’s Consent Law After S.L. 2023-106,”](#) and

[“What Is \(or Isn’t\) Treatment Under S.L. 2023-106, Part 3.”](#)

Resources

North Carolina General Statutes <https://www.ncleg.gov/Laws/GeneralStatutes>.

North Carolina Administrative Code <http://reports.oah.state.nc.us/ncac.asp>.

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