

OHIO

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

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
- Reportable, Communicable, Infectious Disease Care
- S** Sexual Assault Care
- S** **F** Sexually Transmitted Infection/Disease/HIV Care
- S** Substance Use Care

Confidentiality and Disclosure

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

Minor Consent to Health Care—Minor's Status

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

Other

- S** Constitution
- S** Emergency Care
- S** Financial Responsibility
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability
- S** Reproductive Freedom

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

Ohio Rev. Code. Ann. § 3109.01 provides that the age of majority is 18.

Emancipation

No statute expressly defines emancipated minor in general or specifies a legal process by which a minor may become emancipated; however, some statutes and court decisions acknowledge emancipation for specific purposes. In *Dudziak v. Dudziak*, 611 N.E. 2d 337, 341 (Ohio Ct. App. 1992), the court defined emancipation as the freeing of a minor child from parental control and stated that “a definition of emancipation would necessarily include marriage, self-support and/or residence beyond the care and control of parents.”

Ohio Rev. Code. Ann. § 2919.121 provides that, for the purposes of consent to abortion, “a minor shall be considered ‘emancipated’ if the minor has married, entered

the armed services of the United States, become employed and self-subsisting, or has otherwise become independent from the care and control of her parent, guardian, or custodian.”

Minor Marriage

Ohio Rev. Code. Ann. § 3101.02 provides that minors age 17 years or older may marry if both parties are age 17 years or if one party is age 17 years and the other party is not more than four years older; an order of consent from the juvenile court is required. *Ohio Rev. Code. Ann. § 3101.042* provides that the juvenile court shall issue an order regarding each party to the marriage who is age 17 years specifying that the party has the capacity of a person age 18 years or older, except as described in *§ 3109.011*. *Ohio Rev. Code. Ann. § 3109.011* provides that when a minor marries, the minor has the capacity of a person age 18 years or older, except they are not a “qualified elector.”

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**

Ohio Rev. Code. Ann. § 3101.042 provides that when a minor marries, the court issues an order specifying that the minor has the capacity of a person age 18 years or older as described in *§ 3901.011*. *Ohio Rev. Code. Ann. § 3109.01* provides that people who are age 18 years and older are capable of contracting and are considered of full age for all purposes, except that *§ 3109.011* provides that married minors are not qualified to vote.

Minors in State Custody

Ohio Rev. Code Ann. § 5120.172 provides that minors who

are prosecuted as adults, who are convicted or plead guilty, and who are sentenced and serving time in prison in a state correctional institution shall be deemed emancipated for purposes of consenting for medical treatment while confined in the state correctional institution.

Minor Consent—Services**Abortion**

Oh. Const. Art. I, § 22 protects the right of every individual “to make and carry out one’s own reproductive decisions, including but not limited to decisions on...abortion.” This same section additionally prohibits abortion “after fetal viability” unless “it is necessary to protect the pregnant patient’s life or health” per the “professional judgment of

the pregnant patient’s treating physician.” Ohio has enacted numerous restrictions on abortion, which have been challenged in court, both before and after the passage of Art. I, § 22 in 2023; the litigation is ongoing. *For up to date information on the status of abortion restrictions in Ohio, 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 Ohio generally requires parental notification and consent for unemancipated minors, with some exceptions. *Ohio Rev. Code Ann. §§ 2919.12, 2919.121, and 2151.85* specify when minors may obtain abortions, including the requirements for notification of a parent, guardian or custodian; options to notify adult relatives other than parents; and provisions for a judicial bypass. *Ohio Rev. Code Ann. § 2919.121* provides that, for the purposes of consent to abortion, “a minor shall be considered ‘emancipated’ if the minor has married, entered the armed services of the United States, become employed and self-subsisting, or has otherwise become independent from the care and control of her parent, guardian, or custodian.” *For more information on judicial bypass, find the “Under Age __” section on your state’s link in [If When How’s Abortion Laws by State](#).*

For up to date information on the status of abortion protections and restrictions in all 50 states and DC, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#). See also Appendix C. These laws are changing rapidly, so consultation with counsel is also essential.

Family Planning/ Contraceptives

No statute expressly authorizes minors to minors to consent for family planning services or contraceptive care. *Oh. Const. Art. I, § 22* provides that “every individual has a right to make and carry out one’s own reproductive decisions, including but not limited to decisions on contraception” and that the State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either an individual’s voluntary exercise of this right or a person or entity that assists an individual exercising this right, unless the State demonstrates that it is using the least restrictive means to advance the individual’s health in accordance with widely accepted and evidence-based standards of care.

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

Ohio Rev. Code Ann. § 5122.04 provides that a minor age 14 or older may consent for outpatient mental health services, excluding the use of medication, offered by a “mental health professional.” Services are limited to not more than 6 sessions or 30 days of services, whichever occurs sooner. After this point, the professional shall terminate services, or

with the consent of the minor, notify the parent or guardian to obtain consent for further services. *Ohio Rev. Code Ann. § 340.02* defines “mental health professional” for this purpose.

Pregnancy-Related Care

No statute expressly authorizes minors to consent for pregnancy-related care.

Oh. Const. Art. I, § 22 provides that “every individual has a right to make and carry out one’s own reproductive decisions, including but not limited to decisions on contraception, continuing one’s own pregnancy, miscarriage care and abortion” and that the State shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either an individual’s voluntary exercise of this right or a person or entity that assists an individual exercising this right, unless the State demonstrates that it is using the least restrictive means to advance the individual’s health in accordance with widely accepted and evidence-based standards of care. See *Ohio Rev. Code Ann. §§ 2919.12 and 2919.121* for specific requirements related to abortion for minors.

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

Ohio Rev. Code Ann. § 2907.29 provides that notwithstanding any other provision of law, a minor victim of a sexual offense under *Ohio Rev. Code §§ 2907.02 – 2907.06* may consent for examination and must be informed of available venereal disease, pregnancy, medical, and psychiatric services. Parent or guardian consent is not required for the examination. However, the hospital must provide written notice to the parents or guardian of the minor that the examination has taken place.

Sexually Transmitted Infection/Disease/HIV Care

Ohio Rev. Code Ann. § 3709.241 provides that notwithstanding any other provision of law a minor may consent for the diagnosis or treatment of any “venereal disease” by a licensed physician. Consent of the parent or guardian is not required.

Ohio Rev. Code Ann. § 3701.242 and Ohio Admin. Code Ann. § 3701-3-11 provide that a minor may consent for an HIV test. Both statutes state that the consent is not subject to disaffirmance because of minority.

Ohio Admin. Code § 3701-3-01 provides: “Sexually-transmitted disease’ or ‘venereal disease’ is an infectious disease commonly contracted through sexual contact such as chancroid, chlamydia, gonococcal infection, granuloma inguinale, human immunodeficiency virus infection, lymphogranuloma venereum, or syphilis.”

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

consent for the diagnosis or treatment of any condition which one reasonably believes is caused by a drug, beer, or intoxicating liquor.

Substance Use Care

Ohio Rev. Code Ann. § 3719.012 provides that notwithstanding any other provision of law, a minor may

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

Minor Consent Services

Ohio Rev. Code Ann. § 3798.04 provides that a “covered entity” shall not use or disclose protected health information without a HIPAA compliant authorization or one that satisfies both HIPAA and 42 C.F.R. Part 2 (federal substance use disorder confidentiality protection) if that is also applicable, unless the use or disclosure of protected health information is required or permitted by HIPAA and, where applicable, 42 C.F.R. Part 2. *Ohio Rev. Code Ann. § 3798.01* provides that “covered entity” for this purpose has the same meaning as it has in HIPAA, 45 C.F.R. 164.304.

Ohio Rev. Code Ann. § 3798.04 provides that “[p]ersonal representative” does not include the parent or legal guardian of, or another person acting in loco parentis to, a minor who consents to the minor’s own receipt of health care or a minor who makes medical decisions on the minor’s own behalf pursuant to law, court approval, or because the minor’s parent, legal guardian, or other person acting in loco parentis has assented to an agreement of confidentiality

between the provider and the minor.” See **Appendix H** for a detailed discussion of HIPAA and the role of a personal representative.

Ohio Rev. Code Ann. § 3798.07 provides that when a “covered entity” discloses information to a health information exchange, the covered entity must restrict disclosure consistent with all applicable federal laws and “[i]f the protected health information concerns a minor, the covered entity shall restrict disclosure in a manner that complies with laws of this state pertaining to the circumstances under which a minor may consent to the minor’s own receipt of health care or make medical decisions on the minor’s own behalf, including sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of the Revised Code unless the minor authorizes the disclosure.” *Ohio Rev. Code Ann. § 3798.01* provides that “health information exchange” means “any person or governmental entity that provides in this state a technical infrastructure to connect computer systems or other electronic devices used by covered entities to

facilitate the secure transmission of health information. “Health information exchange” excludes health care providers engaged in direct exchange, including direct exchange through the use of a health information service provider.”

Ohio Rev. Code Ann. § 3798.02 provides the legislative intent behind the passage of sections 3798.01-3798.16: “It is the intent of the general assembly in enacting this chapter to make the laws of this state governing the use and disclosure of protected health information by covered entities consistent with, but generally not more stringent than, the HIPAA privacy rule for the purpose of eliminating barriers to the adoption and use of electronic health records and health information exchanges.”

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

Mental Health

Ohio Rev. Code Ann. § 5122.04 provides that when a minor age 14 or older consents for outpatient mental health services, the minor’s parent or guardian shall not

be informed without the minor’s consent unless the professional determines that there is a compelling need for disclosure based on the probability of harm to the minor or other persons. The minor must be notified of the professional’s intent to inform the parent or guardian.

Sexual Assault

Ohio Rev. Code Ann. § 2907.29 provides that when a minor victim of a sex offense consents for examination, the hospital must notify the parent or guardian in writing that the examination has taken place.

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.

Constitution

Oh. Const. Art. I, § 22 provides that “every individual has a right to make and carry out one’s own reproductive decisions,” including but not limited to decisions on contraception, fertility treatment, continuing one’s own pregnancy, miscarriage care and abortion and that the State

shall not, directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either an individual’s voluntary exercise of this right or a person or entity that assists an individual exercising this right, unless the State demonstrates that it is using the least restrictive means to

advance the individual's health in accordance with widely accepted and evidence-based standards of care.

Emergency Care

Ohio Rev. Code Ann. § 2305.2311 provides immunity from civil liability when a health care provider or emergency medical technician that provides emergency medical services, first-aid treatment, or other emergency professional care as a result of a disaster; the section also states that it “does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care provider or emergency medical technician may be entitled in connection with the provision of emergency medical services, first-aid treatment, or other emergency professional care, including the provision of medication or other medical product.”

Financial Responsibility

Ohio Rev. Code Ann. § 3709.241 provides that when a minor consents for the diagnosis or treatment of “venereal disease,” parents are not liable for payment for services rendered under this section without their consent.

Ohio Rev. Code Ann. § 3701.242 and *Ohio Admin. Code Ann. § 3701-3-11* provide that when a minor consents for an HIV test, the parents or guardian of the minor are not liable for payment for an HIV test given to the minor without the consent of a parent or guardian.

Ohio Rev. Code Ann. § 3719.012 provides that when a minor consents for the diagnosis or treatment of any condition which one reasonably believes is caused by a drug, beer, or intoxicating liquor, the parent or legal guardian is not liable for the payment of any charges made for medical or surgical services rendered to such minor, unless the parent or legal guardian has also given consent for the services.

Ohio Rev. Code Ann. § 5122.04 provides that a minor's parent or guardian is not liable for the costs of mental health outpatient services administered upon the request and consent of the minor.

Gender Affirming Care, Restriction

Ohio Rev. Code Ann. § 3129.02, enacted in 2023, prohibits physicians from knowingly performing “gender reassignment surgery” on a minor; or prescribing a “cross-sex hormone” or puberty-blocking drug to a minor for the purpose of gender transition; or engaging in conduct that aids or abets in one of these practices, unless such practices are required for treating a sexual development disorder.

Ohio Rev. Code Ann. § 3129.03 prohibits a “mental health professional” from diagnosing or treating a minor for a “gender-related condition” without the consent of at least one parent, guardian, or custodian of the minor and without screening the minor for other co-morbidities or abuse.

Ohio Rev. Code Ann. § 3129.04 provides for certain exceptions.

Ohio Rev. Code Ann. § 3129.01 defines key terms for this purpose, including “cross-sex hormone,” “gender reassignment surgery,” “gender-related condition” and “mental health professional.”

Ohio Rev. Code Ann. § 3129.05 provides that violations of these provisions are unprofessional conduct and subject to

Resources

Ohio Statutes <https://www.legislature.ohio.gov/laws>

Ohio Administrative Code <https://codes.ohio.gov/ohio-administrative-code>

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