

TEXAS

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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Quick Guide

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General

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- S** Emancipation
- S** Minor Marriage

Minor Consent to Health Care—Services

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- Emergency Care
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- S** Outpatient Mental Health Care
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Confidentiality and Disclosure

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Minor Consent to Health Care—Minor's Status

- S** Emancipated Minor
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Other

- S** Emergency Care
- S** Financial Responsibility
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability
- S** Minor in Foster Care, Consent
- S** Minor Parent, Consent for Child's Care
- S** Parent Consent

Key

State law found⁴

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

Tex. Civ. Pract. & Rem. Code Ann. § 129.001 provides that the age of majority is 18 years. *Tex. Fam. Code § 101.003* provides that “child” or “minor” means “a person under 18 years of age who is not and has not been married or who has not had the “disabilities of minority removed for general purposes.”

Emancipation

Tex. Fam. Code Ann. §§ 31.001 – 31.007 specify the criteria and procedures for a Texas court to “remove the disabilities

of minority.” To apply, the minor must be age 17 years, or at least age 16 years and living separate and apart from the minor’s parents, managing conservator or guardian; and the minor must be managing their own financial affairs.

Minor Marriage

Tex. Fam. Code Ann. § 2.003 provides that “[a] person under 18 years of age may not marry unless the person has been granted by this state or another state a court order removing the disabilities of minority of the person for general purposes.”

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**

Tex. Fam. Code § 31.006 provides that a minor “whose disabilities are removed for general purposes” has the capacity of an adult, except for specific constitutional and statutory age requirements.

Married Minor

Tex. Fam. Code Ann. § 101.003 provides that a person under age 18 who is married is not a minor.

Minor in Armed Forces

Tex. Fam. Code Ann. § 32.003 provides that a minor on active duty with the U.S. armed services may consent for medical, dental, psychological, and surgical care by a physician or dentist, and the consent of a parent or guardian is not necessary.

Minor Living Apart from Parent/Guardian

Tex. Fam. Code Ann. § 32.003 provides that a minor 16 years of age or older who resides separate and apart from

his or her parents, managing conservator, or guardian, with or without their consent and regardless of the duration of separate residence, and who is managing the minor’s own financial affairs, regardless of the source of the income, may consent for medical, dental, psychological, and surgical treatment by a physician or dentist, and the consent of a parent or guardian is not necessary. A physician, dentist, psychologist, hospital, or medical facility may rely on the written statement of the child containing the grounds on which the child has capacity to consent to the child’s medical treatment.

Minor in State Custody

Tex. Fam. Code Ann. § 32.003 provides that a minor serving a term of confinement in a facility operated by or under contract with the Texas Department of Criminal Justice may consent to medical, dental, psychological, and surgical treatment by a physician or dentist, with the exception of a prohibited abortion (prohibited under *Tex. Occ. Code § 164.052(a)(19)*), and the consent of a parent or guardian is not necessary.

Minor Consent—Services

Abortion

Abortion is banned in Texas, with limited exceptions. Numerous restrictions remain on the books even after Texas' trigger ban on abortion took effect on August 25, 2022, after *Roe v. Wade* was overturned. Many of these restrictions have been the subject of litigation in state and federal courts.

For up to date information on the status of abortion restrictions in Texas, 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 *Tex. Fam. Code Ann.* §§ 33.001 – 33.011 provide that an abortion may not be performed on an unmarried unemancipated minor without prior notice to one parent, guardian, or managing conservator. The law includes a judicial bypass and an emergency exception. The law is in effect. Additionally, *Tex. Occ. Code* § 164.052(19) and 22 *Texas Admin. Code* § 165.6 require the written consent of a parent, guardian, or managing conservator for an abortion to be performed on a minor. 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](#).

In addition, *Tex. Health & Safety Code* § 171.208 provides that any person, other than an officer or employee of a state or local governmental entity in Texas, may bring a civil action against any person who: “performs or induces an abortion” in violation of §§ 171.201 – 171.212 (enacted in 2021 as S.B. 8, which includes a “fetal heartbeat” or six-week ban); “knowingly engages in conduct that aids or abets the performance or inducement of an abortion, including paying for or reimbursing the costs of an abortion through insurance or otherwise,” if the abortion is performed or induced in violation of §§ 171.201 – 171.212, regardless of whether the §§ 171.201 – 171.212; or “intends to engage” either in performing or inducing an abortion or in aiding or abetting the performance of an abortion in any of the specified ways. The court may award injunctive relief, monetary damages, and costs and attorneys’ fees.

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 Texas statute expressly authorizes minors to consent for contraception. *Tex. Fam. Code* § 151.001(a)(6) provides that a parent has the right to consent to their child’s medical and dental care, and psychiatric, psychological, and surgical treatment. In *Deanda v. Becerra*, 96 F.4th 750 (5th Cir. 2024), the 5th Circuit Court of Appeals held that nothing in

the federal statute implementing the Title X Family Planning Program preempts this state law, noting that it was undisputed that this Texas statute requires parent consent for contraception. See also [Appendix I](#).

1 *Tex. Admin Code* § 382.25 provides that for purposes of the Healthy Texas Women (HTW) program, “HTW services must be provided with consent from the minor’s parent, managing conservator, or guardian only as authorized by Texas Family Code, Chapter 32, or by federal law or regulations.”

For purposes of the Texas Family Planning Program (FPP), the non-Medicaid program administered by the Texas Health and Human Services Commission or its designee, 1 *Tex. Admin Code* § 382.125 provides “FPP services must be provided with consent from the minor’s parent, managing conservator, or guardian only as authorized by Texas Family Code, Chapter 32, or by federal law or regulations” and 1 *Tex. Admin Code* § 382.127 provides “(a) Minors must be provided individualized family planning counseling and family planning medical services that meet their specific needs as soon as possible. (b) The FPP health-care provider must ensure that: (1) counseling for minors seeking family planning services is provided with parental consent; (2) counseling for minors includes information on use and effectiveness of all medically approved birth control methods, including abstinence; and (3) appointment schedules are flexible enough to accommodate access for minors requesting services.”

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

Tex. Fam. Code Ann. § 32.004 provides that a minor may consent to counseling for: “(1) suicide prevention; (2) chemical addiction or dependency; or (3) sexual, physical, or emotional abuse.”

Tex. Fam. Code Ann. § 32.004 also provides that “[a] licensed or certified physician, psychologist, counselor, or social worker having reasonable grounds to believe that a child has been sexually, physically, or emotionally abused, is contemplating suicide, or is suffering from a chemical or drug addiction or dependency may: (1) counsel the child without the consent of the child’s parents or, if applicable, managing conservator or guardian; . . . Unless consent is obtained as otherwise allowed by law, a physician, psychologist, counselor, or social worker may not counsel a child if consent is prohibited by a court order.”

Pregnancy-Related Care

Tex. Fam. Code Ann. § 32.003 provides that an unmarried pregnant minor may consent for hospital, medical, or surgical treatment, other than abortion, related to her pregnancy, and the consent of a parent or guardian is not necessary.

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

Tex. Fam. Code Ann. § 32.003 provides that a minor may consent for medical, dental, psychological, and surgical treatment by a physician or dentist for the diagnosis and treatment of an infectious, contagious, or communicable disease that is required by law or a rule to be reported to a local health officer or the Texas Department of Health, and the consent of a parent or guardian is not necessary. See 25 *Tex. Admin. Code § 97.3* for a list of reportable diseases.

Sexual Assault Care

Tex. Fam. Code Ann. § 32.004 provides that a minor may consent for counseling for sexual, physical, or emotional abuse and the consent of a parent or guardian is not necessary.

Sexually Transmitted Infection/Disease/HIV Care

Tex. Fam. Code Ann. § 32.003 provides that a minor may consent for medical, dental, psychological, and surgical treatment by a physician or dentist for the diagnosis and treatment of an infectious, contagious, or communicable disease that is required by law or a rule to be reported by the licensed physician or dentist to a local health officer or the Texas Department of Health, and the consent of a

parent or guardian is not necessary. 25 *Tex. Admin. Code § 97.3* provides that sexually transmitted diseases such as chancroid, chlamydia trachomatis infection, gonorrhea, hepatitis acute viral, hepatitis B, and syphilis are reportable.

Tex. Health & Safety Code Ann. § 81.041 provides that AIDS and HIV are reportable diseases. *Tex. Health & Safety Code Ann. § 81.105* provides that, subject to certain exceptions, a person may not perform an HIV test without first obtaining the informed consent of the test subject. Consent need not be written if there is documentation in the medical record that the test has been explained and the consent has been obtained.

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

Tex. Fam. Code Ann. § 32.003 provides that a minor may consent for examination and treatment for “drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use”; and consent of a parent or guardian is not necessary.

Tex. Fam. Code Ann. § 32.004 provides that a minor may consent for counseling for chemical addiction or dependency and the consent of a parent or guardian is not necessary.

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

Electronic Health Records/Protected Health Information

Tex. Health & Safety Code Ann. § 181.004 provides that “covered entities” in Texas, as the term is defined in HIPAA, shall comply with HIPAA and those who meet the definition of “covered entity” in § 181.001, which includes any health care provider who creates, receives, maintains, uses or transmits protected health information, shall also comply with § 181.001 *et seq.* regarding protection and disclosure of protected health information. Among the applicable statutes, *Tex. Health & Safety Code Ann. § 181.102* provides that providers using electronic health records systems shall provide requested information from the electronic record within a specified time but that the provider is not required to provide access to a person’s protected health information that is excepted from access or to which access may be denied under HIPAA regulation, 45 C.F.R. § 164.524.

Tex. Health & Safety Code Ann. § 241.152 prohibits hospitals from disclosing a patient’s health care information without written authorization from the patient or the patient’s legally authorized representative unless an exception in the law applies. *Tex. Health & Safety Code Ann. § 241.151* provides that a legally authorized representative includes the “parent or legal guardian” if a patient is a minor. *Tex. Health & Safety Code Ann. § 241.003* defines “hospital” for this purpose.

Mental Health

Tex. Health & Safety Code Ann. § 611.002 provides that communications between a person who consults a provider for “any mental or emotional condition” including “alcoholism and drug addiction” and the professional they consult, as well as the records of the identity, diagnosis, evaluation, or treatment of that patient that created or maintained by the professional, are confidential and that confidential communications or records may not be disclosed except as provided by §§ 611.004, 611.0041, or 611.0045. *Tex. Health & Safety Code Ann. § 611.004* provides that a professional may disclose confidential mental health information only in specified circumstance, including but not limited to a person who has the written consent of the patient, or a parent if the patient is a minor.

Tex. Health & Safety Code Ann. §§ 611.004 and 611.0045 provide that a patient and certain persons acting on their behalf, including parents, are entitled to have access to the content of a confidential record relating to the diagnosis, evaluation, or treatment of a mental or emotional condition or disorder, including alcoholism or drug addiction, made about the patient; however, the professional may deny access to any portion of a record if the professional determines that release of that portion would be harmful to the patient’s physical or emotional health. In such cases, the statute sets out certain procedural steps the professional must undertake. The Texas Supreme Court in

Abrams v. Jones, 35 S.W.3d 620 (2000), found that where the uncontroverted testimony of a psychologist was sufficient to establish as a matter of law that release of a minor daughter’s records would have been harmful to her, and the father seeking the records did not establish that he was acting in behalf of the child, the father was not entitled to the detailed notes about his daughter’s conversations with her psychologist.

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

Abuse, Substance Use, Suicide Prevention

Tex. Fam. Code Ann. § 32.004 provides that when a minor consents for counseling for suicide prevention, chemical addiction or dependency, or sexual, physical, or emotional abuse, the physician, psychologist, counselor, or social worker, with or without the consent of the minor who is a client, may advise the child’s parents or managing conservator or guardian of the treatment given to or needed by the minor.

Minor Consent Services under § 32.003

Tex. Fam. Code Ann. § 32.003 provides that when a minor consents for care under § 32.003, the physician, dentist, or psychologist, with or without the consent of the minor, may advise the parent or guardian of the treatment given to or needed by 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

Tex. Health & Safety Code Ann. § 773.008 provides that consent for emergency care of a minor is not required if the minor is suffering from what reasonably appears to be a life-threatening injury or illness and the minor's parents, managing or possessory conservator, or guardian of the minor is not present.

Financial Responsibility

Tex. Fam. Code Ann. § 32.004 provides that a parent or managing conservator or guardian, who has not consented for counseling treatment of a minor is not obligated to compensate a physician, psychologist, counselor, or social worker for counseling services rendered.

Gender Affirming Care, Restriction

Tex. Health & Safety Code §§ 161.701 – 161.705 prohibits physicians and health care providers from providing gender transitioning or gender reassignment procedures for minors, subject to certain exceptions. The law also provides that public money “may not directly or indirectly be used, granted, paid, or distributed to any health care provider, medical school, hospital, physician, or any other entity, organization, or individual that provides or facilitates the provision of a [prohibited] procedure or treatment to a minor”; and further prohibits reimbursement under Medicaid or the child health plan. Enforcement to enjoin violations may be brought by the attorney general. In *Loe v Texas*, 2023 WL 5519799, a district court temporarily enjoined enforcement of these statutes as of August 2023 finding that they likely violate the Texas Constitution; however, this case is still ongoing and thus consultation with counsel is essential.

In *Tex. Atty. Gen. Op. No. KP-0401 (2022)*, the Texas Attorney General opined that provision of certain “sex change” procedures and treatments, when performed on children, can legally constitute child abuse under several provisions of chapter 261 of the Texas Family Code.” In a letter incorporating the Attorney General’s opinion, the Governor directed the Texas Department of Family and Protective Services to investigate instances of the use of these procedures and treatments as child abuse. See *Greg Abbott, Letter to Hon. Jaime Masters, Commissioner, Tex. Dep’t of Fam. & Protective Servs. (Feb 22, 2022)*, <https://gov.texas.gov/uploads/files/press/O-MastersJaime202202221358.pdf>. This policy was challenged and in *Masters v. PFLAG, Inc.*, 2022 Tex. App. LEXIS 7234, the Texas Court of Appeals reinstated a temporary injunction that had been granted by the district court. The litigation is ongoing, so consultation with counsel is essential.

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

Tex. Fam. Code Ann. § 32.003 provides that a physician, dentist, psychologist, hospital, or medical facility may rely on the written statement of a minor containing the grounds on which the minor has capacity to consent for his or her medical treatment under *Tex. Fam. Code Ann. § 32.003*.

Tex. Fam. Code Ann. § 32.004 provides that a physician, psychologist, counselor, or social worker may rely on the written statement of the minor containing the grounds on which the minor has capacity to consent for the minor's own treatment and is not liable for damages for provision of minor consent care except for damages resulting from the person's negligence or willful misconduct.

Minor in Foster Care, Consent

Tex. Fam. Code § 266.010 provides that a foster child who is at least age 16 years may consent to the provision of medical care, except as provided by Chapter 33 related to abortion, if the court with continuing jurisdiction determines that the child has the capacity to consent to medical care. If the child provides consent by signing a consent form, the form must be written in language the child can understand. In making a decision under this section regarding whether a foster child has the capacity to consent to medical care, the court shall consider: the maturity of the child; whether the child is sufficiently well informed to make a decision regarding the medical care; and (3) the child's intellectual functioning." The section also specifies procedures if the

minor refuses care or the court determines that the minor lacks capacity.

Minor Parent, Consent for Child's Care

Tex. Fam. Code Ann. § 32.003 provides that a minor who is unmarried and has actual custody of the minor's biological child may consent for medical, dental, psychological, or surgical treatment for the child. Consent of the minor's parents or guardian is not necessary to authorize this care.

Parent Consent

Tex. Fam. Code § 151.001(a)(6) provides that a parent has the right to consent to a minor child's "medical and dental care, and psychiatric, psychological, and surgical treatment."

Tex. Fam. Code § 101.003 provides that "child" or "minor" means" a person under 18 years of age who is not and has not been married or who has not had the "disabilities of minority removed for general purposes."

Resources

Texas Statutes <https://statutes.capitol.texas.gov/>

Texas Administrative Code <https://www.sos.state.tx.us/tac/index.shtml>

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