

UTAH

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
- 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
- S** **F** Insurance Claims/Billing

Minor Consent to Health Care—Minor's Status

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

Other

- S** "Conversion Therapy," Ban⁴
- S** Emergency Care
- S** Financial Responsibility
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Parent, Consent for Child's Care
- S** Sterilization
- S** Vaccine Consent

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

Utah Code Ann. § 15-2-1 provides that the age of majority is 18 years.

Emancipation

Utah Code Ann. §§ 80-7-102 – 80-7-105 specifies the criteria and procedures for a minor to become emancipated.

Utah Code Ann. § 80-7-103 requires the petition to allege that the minor is age 16 years or older, capable of living independently of the minor's parents, and managing their own financial affairs.

Minor Marriage

Utah Code Ann. § 30-1-9 provides that consent of a parent or guardian and a court order are required for a minor age 16 or 17 years to marry. *Utah Code Ann. § 15-2-1* provides that all minors obtain their majority by marriage.

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**

Utah Code Ann. § 78B-3-406(6) provides that an emancipated minor, as provided in *Utah Ann. Code § 80-7-105*, is authorized to consent for any health care not otherwise prohibited by law.

Utah Ann. Code § 80-7-105 provides that an emancipated minor may obtain healthcare without parental consent.

Married Minor

Utah Code Ann. § 78B-3-406(6) provides that a minor who has contracted a lawful marriage is authorized to consent for any health care not otherwise prohibited by law.

Minor Living Apart from Parent/Guardian

Utah Code Ann. § 78B-3-406 provides that an "unaccompanied homeless minor," as that term is defined in the McKinney-Vento Homeless Assistance Act of 1987, *Pub. L. 100-77*, as amended, who is 15 years old or older is authorized to consent for any health care not otherwise prohibited by law.

In McKinney-Vento, *42 U.S.C. § 11434a(6)* provides that an unaccompanied minor is a child that is either "homeless" or not in the physical custody of a parent or legal guardian. *42 U.S.C. § 11434a(6)* contains a detailed definition of "homeless children and youths."

Minor Consent—Services**Abortion**

Abortion is banned in Utah beginning at 18 weeks, with only limited exceptions, and the ban is being enforced based on a decision in *Planned Parenthood Ass'n of Utah v. Checketts*, No. 2:19-cv-00238 (C.D. Utah, Jun. 26, 2022). In *Planned Parenthood Ass'n of Utah v. Utah*, No. 220903886 (Third Jud. Dist. Utah Jul. 11, 2022), a Utah court enjoined enforcement of the state's trigger ban. For up to date information on the status of abortion restrictions in Utah, 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 *Utah Code Ann. § 76-7-304* provides that an abortion may not be performed on an unmarried,

unemancipated minor without 24-hour prior notice to her parents, and *Utah Code Ann.* §76-7-304.5 also provides that the written consent of a parent or guardian is required. The notice and consent requirements include a judicial bypass, exceptions to avert risk of death or substantial impairment of a major bodily function, and provisions for abuse or incest. In *H.L. v. Matheson*, 450 U.S. 398 (1981), the U.S. Supreme Court ruled that the parental notification requirement was constitutional with respect to unemancipated and immature minors and the law is in effect. *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 Utah statute expressly authorizes minors to consent for family planning services or contraception. *Utah Code Ann.* §§ 76-7-321 and 76-7-322 prohibit the use of state funds for contraceptive services provided to unmarried, unemancipated minors without prior parent or guardian consent. The court in *T H v. Jones*, 425 F. Supp. 873 (1975), *aff'd* 425 U.S. 986, held that state regulations prohibiting a minor from obtaining family planning assistance subsidized through federal funds including the Medicaid program without parental consent violated federal law and violated the minor's constitutional right to privacy. See also *Planned Parenthood Ass'n of Utah v. Dandoy*, 810 F.2d 984 (10th Cir. 1987) ("Utah may participate in the program and thereby accept the conditions attached by the federal acts which may be contrary to state law or unwanted or instead choose not to participate and to use its own funds as it wishes. If the choice is to participate, there is thereby accepted a limitation or restriction on state statutes or regulations which conflict with the federal statutes.").

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.

Pregnancy-Related Care

Utah Code Ann. § 78B-3-406(6) provides that any female, regardless of age or marital status, is authorized to consent for any health care not prohibited by law, when given in connection with her pregnancy or childbirth.

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

Sexual Assault Care

Utah Code Ann. § 53-10-803 provides that a minor victim of a sexual offense may request a test for the HIV infection.

Sexually Transmitted Infection/Disease/HIV Care

Utah Code Ann. § 26B-7-214 provides that a minor "who is or professes to be afflicted with a sexually transmitted disease" may consent for medical care or services by a hospital, public clinic, physician, or physician assistant and the consent of no other person is necessary. This section also applies to minors who profess to be in need of care and services for suspected sexually transmitted diseases even if they are later determined not to have a sexually transmitted disease. *Utah Code Ann.* § 26-6-2(14) provides that a "sexually transmitted disease" is a disease transmitted through sexual intercourse or any other sexual contact.

In regulations applicable to child and family services, *Utah Admin. Code R512-32-4(2)* provides that a minor may seek HIV testing without parental consent.

Utah Code Ann. § 53-10-803 provides that a minor victim of a sexual offense may request a test for the HIV infection.

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

Utah Code Ann. § 78B-3-406(6) provides that a minor receiving "tobacco and nicotine cessation services" under § 26B-7-522 is authorized to consent for any health care not prohibited by law.

Utah Code Ann. § 26B-7-522 provides that consent to tobacco and nicotine cessation services executed by a minor who is or professes to be afflicted with nicotine dependence shall have the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as consent given by an individual of full legal age and capacity.

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 Records

Utah Code Ann. § 78B-5-618 provides that where the HIPAA Privacy Rule is applicable, the Privacy Rule governs patient and the patient’s personal representative’s access to a patient’s health records. Where a health care provider is not governed by the Privacy Rule, “a patient or a patient’s personal representative may inspect or receive a copy of the patient’s records unless access to the records is restricted by law or judicial order.”

Mental Health

Utah Code Ann. § 58-60-114 provides that, but for limited exceptions, a mental health therapist may not disclose any confidential communication with a client or patient without the express written consent of: (a) the client or patient; (b) the parent or legal guardian of a minor client or patient; or (c) a person authorized to consent to the disclosure of the confidential communication by the client or patient in a written document. *Utah Code Ann. § 58-60-102* provides relevant definitions.

Substance Use

Utah Admin. Code R. 432-102-14 provides that a substance use disorder specialty hospital shall ensure the confidentiality of the records of substance use disorder patients are maintained according to *42 C.F.R. Part 2, Confidentiality of Substance Use Disorder Patient Records*.

See **Appendix H** for information about minors’ access to and control of their medical information under HIPAA when they have consented to their own care.

Federal laws that may apply in addition to or in lieu of HIPAA and state laws

See **Appendix K** for information about federal confidentiality protection for education records.

See **Appendix J** for information about federal confidentiality protections for certain substance use treatment records.

See **Appendix I** for information about federal confidentiality protection for information about services delivered using Title X Family Planning Program funding.

See **Appendix M** for information about disclosure of information to parents under the 21st Century Cures Act Information Blocking Rule.

Disclosure of Health Information to Parents/Guardians

Contraception

Utah Code. Ann. § 76-7-325 provides that any person before providing contraceptives to a minor shall notify, whenever possible, the minor’s parents or guardian of the service requested to be provided to such minor. However, this law was held unconstitutional in *Planned Parenthood*

Association of Utah v. Matheson, 582 F. Supp 1001 (D.C. Utah 1983) (“the state may not impose a blanket parental notification requirement on minors seeking to exercise their constitutionally protected right to decide whether to bear or to beget a child by using contraceptives.”)

HIV Test Results

In regulations applicable to child and family services, *Utah Admin. Code R 512-32-4(2)* provides that when a minor seeks HIV testing without parental consent, the right to disclose test results belongs to the minor in accordance with § 26B-7-214, which provides that when consent is given by minor for medical care or services for a sexually transmitted disease, the consent has the same legal effect as a consent given by a person of full legal age and capacity.

Sexual Assault

Utah Code Ann. § 77-38-204 provides, in the context of the Confidential Communications for Sexual Assault Act, that the confidential communication between a victim and a sexual assault counselor is available to a third person only when: the victim is a minor and the counselor believes it is in the best interest of the victim to disclose the confidential communication to the victim’s parents; or the victim is a minor and the minor’s parents or guardian have consented to disclosure of the confidential communication to a third party based upon representations made by the counselor that it is in the best interest of the minor victim to make such disclosure.

Tobacco and Nicotine Cessation Services

Utah Code Ann. § 26B-7-522 provides that a person providing tobacco and nicotine cessation services as

described in the statute shall actively encourage a minor to inform the minor’s parent or guardian for support.

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.

“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 conversation therapy for minors, see Movement Advancement Project’s [“Equality Maps: Conversion ‘Therapy’ Laws.”](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

Utah Code Ann. § 26B-4-134 provides that “[a]n individual licensed or certified [as emergency medical service personnel] is not subject to civil liability for failure to obtain consent in rendering emergency medical services authorized by [§ 26B-4-1010 et seq] to any individual who is unable to give his consent, regardless of the individual’s

age, where there is no other person present legally authorized to consent to emergency medical care, provided that the licensed individual acted in good faith.”

Financial Responsibility

Utah Code Ann. § 26B-4-321 provides that the parents, parent, or legal guardian of a minor who receives medical immunization and examination services pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless the parents, parent, or legal guardian consented to the medical services.

Gender Affirming Care

Utah Code Ann. § 58-1-603.1 provides that a health care

provider may not provide a hormonal transgender treatment to a minor patient under age 18 years who is not diagnosed with gender dysphoria before January 27, 2023. *Utah Code Ann. § 58-1-603* defines key terms including “health care provider” and “hormonal transgender treatment” for this purpose. A violation is unprofessional conduct. *Utah Code Ann. § 78B-3-427* provides a private right of action for failure to comply with these requirements. Relevant terms are defined in *Utah Code Ann. § 58-1-603*.

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

Utah Code Ann. § 26B-4-321 provides that a health care provider who provides medical services to a minor in accordance with the provisions of this section is not subject to civil or criminal liability for providing the immunization and examination services described in *Subsections (2)(a) and (b)* without obtaining the consent of another person prior to rendering the medical services.

Minor Parent, Consent for Child’s Care

Utah Code Ann. § 78B-3-406(6) provides that any parent, whether an adult or a minor, may consent for any health care not prohibited by law for his or her minor child.

Vaccination, Consent

Utah Code Ann. § 26B-4-321 provides that a minor who is married, emancipated, a parent with custody of a child, or pregnant may consent to vaccinations against epidemic infections and communicable diseases, as defined in *§ 26B-7-201*, and examinations and vaccinations required to attend school. A minor who is has custody of a minor child or is pregnant may consent to these vaccinations and the vaccine for human papillomavirus only if the minor represents to the health care provider that the minor is an abandoned minor as defined in *§ 76-5-109.3*; and the health care provider makes a notation in the minor’s chart that the minor represented to the health care provider that the minor is an abandoned minor under *§ 76-5-109.3*. The consent of the minor pursuant to this section is not subject to later disaffirmance because minority, is not voidable because of minority, has the same legal effect as consent given by a person of full age and capacity, and does not require the consent of any other person or person. This section does not remove the requirement for parental consent or notice when required by *§§ 76-7-304 and 76-7-304.5* for a minor’s abortion.

Resources

Utah Code <https://le.utah.gov/xcode/code.html>

Utah Administrative Code <https://rules.utah.gov/>

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