

Minor Consent and Confidentiality

A Compendium of State and Federal Laws



teenhealthlaw.org/compendium

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National Center for Youth Law

The National Center for Youth Law (NCYL) is a national, non-profit advocacy organization that has fought to protect the rights of children and youth for more than fifty years. Headquartered in Oakland, California, NCYL leads high impact campaigns that weave together litigation, research, policy development, and technical assistance.

What this compendium is:

This is a compendium of laws that may be relevant when minors wish to access certain types of sensitive health care and/or wish to access care on their own consent. Each state compendium begins with a chart entitled “quick guide.” The topics listed in the quick guide represent the categories of laws most frequently identified across all states. A circle next to a particular category signifies that a relevant state or federal law was found. Where a law was found, those laws are described in the “summary” section. Each state’s compendium ends with a list of resources, including links to a series of Appendices that delve deeper into key topics.

What this compendium is not:

This is not a comprehensive guide to all consent, confidentiality, and disclosure laws in any state. For example, the compendium does not include all laws that allow or require parents or persons acting *in loco parentis* to consent to care. Nor does it summarize disclosure laws that may allow or require disclosure of health information for mandated child abuse or public health reporting.

Recommended Citation

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Disclaimer

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Quick Guide

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Other

- S Bone Marrow Donation
- S Conversion Therapy,⁴ Case law
- S Emergency Care
- S Gender Affirming Care, Restrictions
- S Good Faith Reliance/Immunity from Liability
- S Minor Parent, Consent for Child's Care
- S Vaccination, Parent 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

Ala. Code § 26-1-1 provides that the age of majority is 19. The section also provides that an unemancipated minor who is 18 years old and of sound mind, notwithstanding his or her minority, may enter into a binding contract as may be exercised by an individual of full legal age.

Emancipation

Ala. Code §§ 26-13-1 - 26-13-8 provide criteria for a minor age 18 years to be eligible for emancipation, the steps to file for emancipation in court, and the effects of a judgment of emancipation.

Minor Marriage

Ala. Code §§ 30-1-4, 30-1-5, and 30-1-9.1 provide that minors age 16 and 17 years may marry with parent consent; minors age 18 years may marry without parent consent.

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's Status**Emancipated Minor**

Ala. Code § 26-13-5 provides that court-ordered emancipation gives the minor, over the age of 18, the general right to do and perform all acts that the minor could lawfully do if age 19.

High School Graduate

Ala. Code § 22-8-4 provides that any minor who is age 14 years or older or has graduated from high school may give effective consent for any legally authorized medical, dental, health, or mental health services and the consent of no other person is necessary.

Married Minor

Ala. Code § 22-8-4 provides that any minor who is married or divorced may consent for any legally authorized medical, dental, health, or mental health services for themselves and the consent of no other person is necessary. *Ala. Code § 22-8-5* also provides that any minor who is married or divorced may consent for any legally authorized medical, dental, health, or mental health services.

Minor, Age or Maturity

Ala. Code § 22-8-4 provides that any minor who is age 14 years or older or has graduated from high school may give effective consent for any legally authorized medical, dental, health, or mental health services and the consent of no other person is necessary.

Minor Parent

Ala. Code § 22-8-5 provides that minors who have borne a child may consent for any legally authorized medical, dental, health, or mental health services for themselves or for their child.

Pregnant Minor

Ala. Code § 22-8-4 provides that any minor who is pregnant may consent for any legally authorized medical, dental, health, or mental health services for herself and the consent of no other person is necessary.

Minor Consent—Services

Abortion

Abortion is banned in Alabama, with limited exceptions, including to prevent a serious health risk to the pregnant individual, or in case of ectopic pregnancy and lethal fetal anomalies. The law also includes numerous restrictions and requirements that have not been repealed. See *Ala. Const. Art. I, § 36.06, Ala. Code §§ 26-23H-2 through 26-23H-8, 26-23A-1 through 26-23A-13*. For up to date information on the status of abortion restrictions in Alabama, 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 *Ala. Code §§ 26-21-1 through 26-21-8* require parent or guardian for an unemancipated minor under age 18 years; the law includes a judicial bypass and exceptions for medical emergencies, as defined by the statute. 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 consent for contraceptives.

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

Ala. Code § 22-8-4 provides that any minor who is age 14 years or older, or has graduated from high school, or is married or divorced, or is pregnant may give consent for any legally authorized mental health services and the consent of no other person is necessary.

Ala. Code § 22-8-6 provides that any minor may consent for any mental health services to determine the presence of or to treat pregnancy, venereal disease, drug dependency, alcohol toxicity, or any reportable disease, and the consent of no other person is necessary.

Ala. Code § 22-8-10 provides that the parent or legal guardian of a minor who is at least 14 years of age may authorize any mental health treatment services even if the minor has expressly refused such services if the parent or legal guardian and a mental health professional determine the necessity of clinical intervention.

Pregnancy-Related Care

Ala. Code § 22-8-6 provides that any minor may consent for any legally authorized medical, health, or mental health services to determine the presence of or to treat pregnancy and the consent of no other person is 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

Ala. Code § 22-8-6 provides that any minor may consent for any legally authorized medical, health, or mental health services to determine the presence of or to treat any reportable disease, including HIV, and the consent of no other person is necessary.

For a listing of diseases designated by the State Board of Health as notifiable diseases, see *Ala. Admin. Code r. 420-4-1, Appendix A1*, <https://www.alabamapublichealth.gov/infectiousdiseases/detect.html>

Sexually Transmitted Infection/Disease/HIV Care

Ala. Code § 22-8-6 provides that any minor may consent for any legally authorized medical, health, or mental health services to determine the presence of or to treat venereal disease and the consent of no other person is necessary.

Ala. Code § 22-11A-19 provides that, notwithstanding any other law, a minor age 12 or older who may have come into contact with any sexually transmitted disease (as designated by the State Board of Health), including HIV, may consent for medical care related to the diagnosis or treatment of such disease.

For a listing of diseases designated by the State Board of Health as sexually transmitted diseases, see *Ala. Admin. Code r. 420-4-1, Appendix A1*, <https://www.alabamapublichealth.gov/infectiousdiseases/detect.html>.

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

Ala. Code § 22-8-6 provides that any minor may consent for any legally authorized medical, health, or mental health services to determine the presence of or to treat drug dependency or alcohol toxicity and the consent of no other person is 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

Mental health

Ala. Code § 22-8-10 provides that: “[a]ccess to the mental health records of the minor will follow the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Public Law 104-191.” This section also allows a parent or guardian to consent for mental health treatment for a minor under specific circumstances; §§ 22-8-4 and 22-8-6 authorize minors to consent for themselves under specific circumstances.

Sexually transmitted disease/Infection/HIV

Ala. Code § 22-11A-22 provides that All information, reports and medical records concerning persons infected with sexually transmitted diseases designated by the State Board of Health shall be confidential. Individual medical records may be released on the written consent of the patient.

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

Sexually transmitted disease/Infection/HIV

Ala. Code § 22-11A-19 provides that the medical provider or facility providing diagnostic procedures or treatment related to any sexually transmitted disease (as designated by the State Board of Health), including HIV, may, but is not obligated to, inform the parent or guardian as to the treatment given or needed.

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.

Bone Marrow Donation

Ala. Code § 22-8-9 provides that any minor who is age 14 years or older, has graduated from high school, is married or divorced, or is pregnant may give consent for their bone marrow donation for the purposes of bone marrow transplantation. *Ala. Code § 22-8-9* allows a minor under age 14 years to donate bone marrow but only with consent of parent or legal guardian.

“Conversion Therapy,” Case law

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

Ala. Code § 22-8-3 provides that any legally authorized medical, dental, health, or mental health services may be provided to minors of any age without the consent of a parent or legal guardian when, in the judgment of the physician, an attempt to secure consent would result in delay of treatment that would increase the risk to the minor’s life, health, or mental health.

Gender Affirming Care, Restriction

Ala. Code § 26-26-4(a) prohibits the administration of interventions, such as puberty blockers and hormone therapy, intended to affirm a minor’s gender identity when it conflicts with the minor’s sex as defined in *Ala. Code § 26-26-3*. In *Eknes-Tucker v. Marshall*, 603 F. Supp. 3d 1131, 1146 (M.D. Ala. 2022), the court issued a preliminary

injunction against enforcement of the ban, finding the prohibitions against puberty blockers and hormone therapy unconstitutional because they infringed on parents’ fundamental right to direct their children’s medical care, which includes the right to “treat their children with transitioning medications subject to medically accepted standards.” These laws are changing rapidly so consultation with counsel is essential.

For up to date information on the status of restrictions on gender affirming care for minors, see [Movement Advancement Project’s “Equality Maps: Bans on Best Practice Medical Care for Transgender Youth.”](#) See also **Appendix G** for further information about gender-affirming care.

Good Faith Reliance/Immunity from Liability

Ala. Code § 22-8-7 provides that a physician may rely in good faith upon the consent of a minor who professes to be, but is not, a minor whose consent alone is effective to medical, dental, health, or mental health services and the physician shall not be liable for not having consent.

Minor Parent, Consent for Child’s Care

Ala. Code § 22-8-5 provides that any minor who has borne a child may consent for any legally authorized medical, dental, health, or mental health services for their child.

Vaccination, Parent Consent

Ala. Code § 22-8-11 provides that notwithstanding *Ala. Code § 22-8-4*, no minor may receive a COVID-19 vaccination without the written consent of a parent or legal guardian.

Alabama Code <https://alison.legislature.state.al.us/code-of-alabama>

Alabama Administrative Code <https://admincode.legislature.state.al.us/>

ALASKA

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Quick Guide

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- S Emancipation
- S Minor Marriage

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Confidentiality and Disclosure

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- High School Graduate
- S Married Minor
- Minor, Age or Maturity
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- S Minor Parent
- Minor in State Custody
- Pregnant Minor

Other

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- S Financial Responsibility
- Gender Affirming Care
- S Good Faith Reliance/Immunity from Liability
- S Minor Consent, Parent Unwilling, Unavailable
- S Minor Parent, Consent for Child's Care
- 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

Alaska Stat. § 25.20.010 provides that the age of majority is 18 years.

Emancipation

Alaska Stat. § 09.55.590 provides that a minor who is at least 16 years old and meets certain criteria may petition the court for emancipation. This section sets forth the criteria and procedures for a court to grant emancipated status to a minor and the effects of an order of emancipation.

Minor Marriage

Alaska Stat. § 25.20.020 specifies that a person arrives at the age of majority upon being married. *Alaska Stat. § 25.05.171* provides that a minor who is 16 or older may petition the court to marry someone who is not more than three years older. The statute specifies the criteria and procedures for a minor to marry.

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's Status**Emancipated Minor**

Alaska Stat. § 09.55.590 provides that except for specific constitutional and statutory age requirements for voting and drinking, an emancipated minor generally has the power and capacity of an adult.

Married Minor

Alaska Stat. § 25.20.020 specifies that a person arrives at the age of majority upon being married.

Minor Living Apart

Alaska Stat. § 25.20.025 provides that minors who are living apart from their parents or legal guardian and who are managing their own financial affairs, regardless of the source or extent of income, may give consent for their own medical or dental services, except abortion.

Minor Parent

Alaska Stat. § 25.20.025 provides that a minor parent may consent for medical and dental services for themselves.

Minor Consent—Services**Abortion**

Abortion is legal and protected in Alaska, with some restrictions. The Alaska Supreme Court recognized a right to abortion under the Alaska Constitution in *Valley Hosp. Ass'n, Inc. v. Mat-Su Coal. for Choice*, 948 P.2d 963 (1997). For up to date information on the status of abortion protections and restrictions in Alaska, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

Minors may consent to abortion and parent notice or consent is not required. The Alaska Supreme Court has held that Alaska's parent notification law, *Alaska Stat. §§ 18.16.010 – 18.16.090*, violates both equal protection and privacy protections under the Alaska Constitution. Minors have the same fundamental right to privacy and reproductive choice under the Alaska Constitution article I, section 22, as do adults and that this allows minors to obtain all pregnancy-related care, including abortion, on their own consent and this cannot be conditioned by requiring parent consent or notice. See *Planned Parenthood of the Great Northwest v. State*, 375 P.3d 1122 (Alaska

2016); *State v. Planned Parenthood of Alaska (Planned Parenthood II)*, 171 P.3d 577, 582 & n. 26 (Alaska 2007).

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.

Emergency Care

Alaska Stat. § 25.20.025 provides that a minor may give consent for medical and dental services if the parent or legal guardian of the minor cannot be contacted or, if contacted, is unwilling either to grant or withhold consent. The health care provider must counsel the minor keeping in mind the valid interests of the minor and of the parent or legal guardian and of the family unit as the provider presumes them.

Alaska Stat. § 09.65.090 provides that a person who renders emergency care or counseling to an injured, ill, or emotionally distraught person who reasonably appears to be in immediate need of the aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering emergency aid.

Family Planning/ Contraceptives

Alaska Stat. § 25.20.025 provides that a minor may give consent for prevention of pregnancy.

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

Alaska Stat. § 25.20.025 provides that a minor may give consent for diagnosis, prevention, or treatment of pregnancy.

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

Sexually Transmitted Infection/Disease/HIV Care

Alaska Stat. § 25.20.025 provides that a minor may give consent for the diagnosis and treatment of “venereal disease.”

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

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

Patient Access

Alaska Stat. § 18.23.005 provides that a patient is entitled to inspect and copy any records developed or maintained by a health care provider or other person pertaining to the health care rendered to the patient. *Alaska Stat. § 18.23.070* offers definitions related to this provision.

Electronic Health Records

Alaska Stat. § 18.23.310 provides that the Department of Health shall establish standards for Electronic Health Information Exchanges that protect the transmission and receipt of individually identifiable health information and that these must include controls over access to and collection, organization, and maintenance of records and data that protect the confidentiality of the individual who is the subject of a health record. The Department also must establish procedures for the patient who is the subject of the record to opt out of the system and to consent to distribution of their records.

Mental Health

Alaska Stat. §§ 47.30.590 and *47.30.845* require the Department of Health to develop regulations to protect the confidentiality of information and records about recipients of services in community mental health facilities; the regulations developed by the State Department of Health to protect the confidentiality of records and information for recipients of services in community mental health centers must provide for disclosure of confidential information to parents or guardians, to mental health professionals providing services to a recipient, and to other appropriate service agencies when it is in the defined best interests of the patient.

Alaska Stat. § 47.30.845 provides that information and records obtained in the course of a screening investigation, evaluation, examination, or treatment for certain mental health care are confidential and restrict disclosure except as authorized in the statute pursuant to regulations established by the State Department of Health.

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

Alaska Stat. §§ 47.30.590 provides that the regulations developed by the State Department of Health to protect the confidentiality of records and information for recipients of services in community mental health centers must provide for disclosure of confidential information to parents or guardians when it is in the defined best interests of the patient.

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

Alaska Const. Art I, § 22 provides: “The right of the people to privacy is recognized and shall not be infringed.” See *Planned Parenthood of the Great Northwest*, 375 P.3d 1122, 1129 (Alaska 2016) in which the Alaska Supreme Court stated that “In 1997 we examined this express privacy provision in the context of pregnancy-related decisions and held that a woman’s fundamental privacy right to reproductive choice is more broadly protected by the Alaska Constitution than the United States Constitution” (citing to *Valley Hosp. Ass’n, Inc. v. Mat-Su Coal. for Choice*, 948 P.2d 966-69 (Alaska 1997)).

Financial Responsibility

Alaska Stat. § 25.20.025 provides that the parent or legal guardian of a minor is not financially responsible to the provider of health care services for services to which the minor consented under this statute.

Gender Affirming Care

There are no restrictions on gender affirming care in Alaska at this time.

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

Alaska Stat. § 25.20.025 provides that a provider of medical

or dental care may rely in good faith on the representations of a minor that they qualify to consent under *Alaska Stat. § 25.20.025*.

Minor Consent when Parent Unavailable, Unwilling

Alaska Stat. § 25.20.025 provides that a minor may give consent for medical and dental services if the parent or legal guardian of the minor cannot be contacted or, if contacted, is unwilling either to grant or withhold consent; however, where the parent or legal guardian cannot be contacted or, if contacted, is unwilling either to grant or to withhold consent, the provider of medical or dental services shall counsel the minor keeping in mind not only the valid interests of the minor but also the valid interests of the parent or guardian and the family unit as best the provider presumes them.

Minor Parent, Consent for Child’s Care

Alaska Stat. § 25.20.025 provides that a minor parent may consent for medical and dental services for their child.

Reproductive Freedom

In *Planned Parenthood of the Great Northwest*, 375 P.3d 1122, 1129 (Alaska 2016), the Alaska Supreme Court stated that the “express privacy provision in the context of pregnancy-related decisions and held that a woman’s fundamental privacy right to reproductive choice is more broadly protected by the Alaska Constitution than the United States Constitution.”

Resources

Alaska Statutes: <https://www.akleg.gov/basis/statutes.asp>

Alaska Administrative Code: <https://www.akleg.gov/basis/aac.asp>

ARIZONA

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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
- 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

- 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,⁴ Partial Ban
- S** Emergency Care
- S** Financial Responsibility
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability
- S** Shield Law

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

Ariz. Rev. Stat. § 1-215(3) and (19) provides that the age of majority is 18.

Emancipation

Ariz. Rev. Stat. § 12-2451 provides that a minor may file a petition for emancipation if the minor is at least 16 years old, a resident of Arizona, and is financially self-sufficient. The court may grant the petition if certain criteria are met. *Ariz. Rev. Stat. § 12-2454* provides that emancipation recognizes the minor as an adult for multiple purposes.

Minor Marriage

Ariz. Rev. Stat. § 25-102 provides that a minor who is at least 16 years old may marry with parent or guardian consent and if their prospective spouse is not more than 3 years older. Emancipated minors also may marry if the prospective spouse is not more than 3 years older.

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's Status**Emancipated Minor**

Ariz. Rev. Stat. § 12-1254(A)(9) provides that a court order of emancipation recognizes the minor as an adult for purposes of "right to consent to medical, dental and psychiatric care without parental consent, knowledge or liability."

Ariz. Rev. Stat. § 44-132 provides that notwithstanding any other provision of law (except statutes pertaining to abortion), any emancipated minor may consent for hospital, medical, and surgical care, and parental consent is not necessary.

Married Minor

Ariz. Rev. Stat. § 44-132 provides that, notwithstanding any other provision of law (except statutes pertaining to abortion), any minor who has contracted a lawful marriage, even if there was subsequently a divorce or annulment, may consent for hospital, medical, and surgical care, and parental consent is not necessary. See also *Ariz. Rev. Stat. § 44-131*.

Minor Living Apart from Parent/Guardian

Ariz. Rev. Stat. § 44-132 provides that notwithstanding any other provision of law (except statutes pertaining to abortion), any homeless minor may consent for hospital, medical, and surgical care, and parental consent is not necessary. A homeless minor is an individual under age 18 living apart from his parents and who lacks a fixed and regular nighttime residence or whose primary residence is a supervised temporary shelter, a halfway house, or a place not designed for or ordinarily used for sleeping by humans.

Minor Consent—Services

Abortion

The legal status of abortion in Arizona is currently changing rapidly. On April 9, 2024, the Arizona Supreme Court ruled that *Ariz. Rev. Stat. § 13-3603*, a pre-Roe v. Wade ban on abortion, is enforceable. See *Planned Parenthood v. Mayes*, No. CV-23-0005-PR (Ariz. April 9, 2024). On May 1, 2024, the Arizona governor signed *H.B. 2677, 2024 Leg., Reg. Sess. (AZ. 20234)*, which repealed the pre-Roe ban. Arizona law contains other restrictions on abortion; some of which have been enjoined by the courts while others are in effect. For up to date information on the status of abortion protections and restrictions in Arizona, 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 *Ariz. Rev. Stat. § 36-2152* provides that the prior written and notarized consent of one parent or a legal guardian is required for an abortion to be performed on an unemancipated minor under age 18. The law contains a judicial bypass provision, an emergency exception, and an exception for cases of incest or sexual abuse by a member of the household. In *Planned Parenthood of Southern Arizona v. Lawall*, 307 F.3d 783 (9th Cir. 2002), both the federal District Court and the U.S. Court of Appeals for the Ninth Circuit held that Arizona's law requiring parental consent or a judicial waiver for a minor to have an abortion is constitutional. 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 explicitly authorizes a minor to consent for contraception. In *Ariz. Op. Att'y Gen. No. 77-37 (1977)*, the Arizona Attorney General noted that no state law requires parent consent for family planning and opined both that a state or local agency which administers family planning services under Titles V, X, XIX or XX of the Social Security Act must provide contraceptive services to consenting unemancipated minors and may not require parent consent and that if a minor requests and consents to family planning services, the agency or physician who provides those services absent parental consent would neither be criminally or civilly liable.

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

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

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

Ariz. Rev. Stat. § 13-1413 provides that a minor age 12 or older may consent for hospital, medical, and surgical examination, diagnosis, and care in connection with a sexual assault when it is not possible to contact the parents or legal guardian within the short time span in which the sexual assault exam should be conducted.

Sexually Transmitted Infection/Disease/HIV Care

Ariz. Rev. Stat. § 44-132.01 provides that notwithstanding any other provision of law, a minor who may have contracted a "venereal disease" may consent for hospital or medical care related to the diagnosis and treatment of the disease. The consent of a parent or legal guardian is not necessary.

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

Ariz. Rev. Stat. § 44-133.01 provides that any minor age 12 or older who is found to be under the influence of a "dangerous drug or narcotic," including symptoms of withdrawal, may be considered an emergency case and is to be regarded as having consented for hospital or medical care needed for treatment. Consent of a parent or legal guardian is not necessary, but the consent of a parent or legal guardian is valid.

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

Medical and Payment Records

Ariz. Rev. Stat. § 12-2292 provides that medical and payment records are confidential but may be disclosed with written authorization of the patient or the patient’s health care decision-maker. *Ariz. Rev. Stat. § 12-2291* defines key terms including “medical record,” “health care provider” and “health care decision maker”.

Ariz. Rev. Stat. § 12-2291 defines “health care decision maker” to include, among others, “an individual who is authorized to make health care treatment decisions for the patient, including a parent of a minor.”

Ariz. Rev. Stat. § 12-2293 provides that, generally, a health care provider must provide access to the patient’s medical or payment records to the patient or the patient’s health care decision maker upon written request, but provides that the health care provider may deny the patient or health care decision maker access in certain circumstances, including when access may endanger the life or physical safety or is reasonably likely to cause harm to the patient or another person.

Ariz. Admin. Code R9-1-302 provides that medical or payment records containing individually identifiable health information cannot be disclosed by employees or volunteers of the Department of Health Services Administration without a valid authorization. The authorization should be signed by a patient 18 years or older or who is an “emancipated minor” (homeless,

married, armed services, emancipated by a court). For unemancipated minors under age 18 years, the parent, legal guardian or other health care decision maker must sign unless the minor consented for care under *Ariz. Rev. Stat. § 44-132.01* (“venereal disease”), irrespective of age, or *Ariz. Rev. Stat. § 44-133.01* (“dangerous drug or narcotic”), if the minor who received care is 12 or older.

HIV Information

Ariz. Rev. Stat. § 36-664 provides that information related to an HIV test or a person who has been diagnosed with HIV shall not be disclosed except as authorized by state or federal law or as provided in the statute, unless authorized by the “protected person” with “capacity to consent.” *Ariz. Rev. Stat. § 36-661* provides that “capacity to consent” means a person’s ability, determined without regard to the person’s age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure and to make an informed decision concerning that service, treatment or procedure.

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

Medical and Payment Records

Ariz. Rev. Stat. §12-2293 provides that a health care provider must provide access to the patient's medical or payment records to a parent who is a minor patient's health care decision maker upon written request but the health care provider may deny access in certain circumstances, including when access by the health care decision maker is reasonably likely to cause substantial harm to the patient or another person.

Ariz. Rev. Stat. §12-2291 defines "health care decision maker" for this purpose to include an individual who is authorized to make health care treatment decisions for the patient, including a parent of a minor.

Ariz. Admin. Code R9-1-302 provides that medical or payment records containing individually identifiable health information cannot be disclosed by employees or volunteers of the Department of Health Services Administration without a valid authorization. The authorization should be signed by a patient 18 years or older or who is an emancipated minor (homeless, married, armed services, emancipated by a court). For unemancipated minors under age 18, the parent, legal

guardian or other health care decision maker must sign unless the minor consented for care under Ariz. Rev. Stat. § 44-132.01 ("venereal disease"), irrespective of age, or Ariz. Rev. Stat. § 44-133.01 ("dangerous drug or narcotic"), if the minor who received care is 12 or older.

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," 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

Ariz. Rev. Stat. § 44-133 provides that, notwithstanding any

other provision of law, in cases of emergency in which a minor needs "immediate hospitalization, medical attention, or surgery", and after reasonable efforts the minor's parents cannot be located, consent for the emergency situation may be given by any person standing *in loco parentis* to the minor.

Ariz. Rev. Stat. § 36-2271 provides that, except as otherwise provided by law, prior written consent of a parent or legal guardian is required for surgery on a minor. This section does not apply in emergency situations in which surgery is necessary for the treatment of a serious disease, injury or

drug abuse, or to save the life of the patient, or when the parent or legal guardian cannot be located after reasonably diligent effort.

Financial Responsibility

Ariz. Rev. Stat. § 13-1413 provides that the parents or guardian of a minor are not financially liable for sexual assault services rendered to the minor without parent or guardian consent.

Gender Affirming Care, Restriction

Ariz. Rev. Stat. § 32-3230 provides that a physician may not provide irreversible “gender reassignment surgery” to a minor. The statute defines “irreversible gender reassignment surgery” for this purpose.

For up to date information on the status of restrictions on gender affirming care for minors, see [Movement Advancement Project’s “Equality Maps: Bans on Best Practice Medical Care for Transgender Youth.”](#) See also Appendix G for further information about gender-affirming care.

Good Faith Reliance/Immunity from Liability

Ariz. Rev. Stat. § 44-132 provides that a health care provider may rely on the consent of a minor who has authority or apparent authority to consent for their own healthcare

under the provisions of the statute; in such a case, the health care provider is not criminally or civilly liable and cannot face professional disciplinary action for failing to obtain consent of the minor’s parent or legal guardian.

Shield Laws

The Arizona Governor issued AZ Exec. Order, No. 2023-11 (June 22, 2023) an executive order that among other things, restricts honoring of extradition requests from other states related to provision of legal reproductive healthcare to the extent permitted by law, restricts state agencies from sharing information that would be used to impose criminal or civil liability or professional sanction for providing, seeking, assisting or obtaining reproductive health care; and centralizes jurisdiction over any abortion related criminal investigations in the Attorney General, to the extent possible under the law.

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

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

Resources

Arizona Statutes: <https://www.azleg.gov/arstitle/>

Arizona Administrative Code: <https://azsos.gov/rules/arizona-administrative-code>

ARKANSAS

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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
- S** Emergency Care
- S** **F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- S** **F** Pregnancy Related Care
 - Reportable, Communicable, Infectious Disease Care
 - Sexual Assault Care
- S** **F** Sexually Transmitted Infection/Disease/HIV Care
- 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

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

Other

- S** Care in Certain Settings, Parent Consent
- S** Emergency
- S** Gender Affirming Care, Restriction
- S** Minor Parent, Consent for Child

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

Ark. Code Ann. § 9-25-101 provides that the age of majority is 18.

Emancipation

Ark. Code Ann. §§ 9-26-104 and 9-27-362 provide when a court may emancipate a minor and the effects of emancipation.

Minor Marriage

Ark. Code Ann. § 9-11-102 provides that minors age 17 years may marry with parent consent, though a court may void parent consent under some circumstances. *Ark. Code Ann. § 9-11-103* provides that if one or both parties is age 16 years or older and the female is pregnant, a court may authorize marriage in some cases. *Ark. Code Ann. § 9-11-103* provides that the state recognizes marriages contracted in other states or countries as legal if they were legal under the laws of that other state or country.

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's Status**Emancipated Minor**

Ark. Code Ann. § 20-9-602 provides that any emancipated minor may consent for surgical or medical treatment or procedure not prohibited by law that is suggested, recommended, prescribed, or directed by a licensed physician.

Married Minor

Ark. Code Ann. § 20-9-602 provides that a married minor may consent for medical and surgical care or procedure not prohibited by law that is suggested, recommended, prescribed, or directed by a licensed physician.

Minor, Age or Maturity

Ark. Code Ann. § 20-9-602 provides that "any unemancipated minor of sufficient intelligence to understand and appreciate the consequences of the proposed surgical or medical treatment or procedures" may consent for surgical or medical treatment or procedure not prohibited by law that is suggested, recommended, prescribed, or directed by a licensed physician.

Minor in State Custody

Ark. Code Ann. § 20-9-602(12) provides that any minor who is incarcerated by the Department of Correction or the Department of Community Correction may give consent for medical or surgical treatment or procedure not prohibited by law that is suggested, recommended, prescribed, or directed by a licensed physician.

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

Minor Consent—Services**Abortion**

Abortion is banned in Arkansas with a limited exception "to save the life of a pregnant woman in a medical emergency." See *Ark. Code Ann. §6 5-61-301 – 5-61-304*. For up to date information on the status of abortion protections and restrictions in Arkansas, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

To the extent abortion is legally permitted, minors may obtain an abortion. However, Ark. Code Ann. §§ 20-16-801 - 20-16-810 provide that written parent or guardian consent is required before an abortion may be performed upon an unemancipated minor under age 18 years. The law contains a judicial bypass and exceptions for medical emergencies, incest, and sexual abuse. *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

Ark. Code Ann. § 20-16-304 provides that “all medically acceptable contraceptive procedures, supplies, and information” shall be available through legally recognized channels to each person who desires them regardless of sex, race, age, income, number of children, marital status, citizenship, or motive, except permanent sterilization is normally not available to persons under age 18.

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

No statute expressly authorizes minors to consent for outpatient mental health services generally. However, Ark. Code Ann. § 6-17-107 provides that “[t]eachers, school counselors, school healthcare providers, and other school personnel shall be immune from any civil liability for providing counseling, referral, emergency medical care, or other assistance offered in good faith to suicidal students or other suicidal youth.” For this purpose, “[s]uicidal” refers to a person who poses a substantial risk of physical harm to himself or herself as manifested by evidence of, threats of, or attempts at suicide or self-inflicted bodily harm or by evidence of other behavior or thoughts that create a grave and imminent risk to [their] physical condition.”

Pregnancy-Related Care

Ark. Code Ann. § 20-9-602 provides that “any female, regardless of age or marital status,” may consent for medical or surgical care or procedure not prohibited by law that is suggested, recommended or directed by a licensed physician in connection with pregnancy or childbirth, except for “the unnatural interruption of pregnancy.”

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

Sexually Transmitted Infection/Disease (STI/STD)

Ark. Code Ann. § 20-16-508 provides that minors who believe they have a sexually transmitted disease may give consent for medical or surgical care or services by a hospital or public clinic or physician 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.

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

Ark. Code Ann. § 25-43-812 provides that “[p]atient-specific protected health information shall be disclosed only in accordance with the patient’s authorization or in compliance with state confidentiality laws and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as it existed on January 1, 2011, and regulations under the act.”

Health Maintenance Organization Records

Ark. Code Ann. § 23-76-129 provides that “[a]ny data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from the person or from any provider by any health maintenance organization shall be held in confidence and shall not be disclosed to any person except to the extent that it may be necessary to carry out the purposes of this chapter, upon the express consent of the enrollee or applicant, pursuant to statute or court order [in connection with litigation].”

School-based Health Center Records

Ark. Code Ann., § 6-18-703 provides that: “(i) All school-based clinics shall maintain accurate records of the distributing and prescribing of contraceptives and condoms. (ii) The number of pregnancies and sexually transmitted diseases among students in the schools with school-based clinics shall be transmitted annually to the school district board of directors. (iii) Records maintained under this section are part of the confidential medical

record of the student. (iv) Numerical or statistical data required to be maintained under this subsection may not be released in a manner that reveals the identity of or any other information contained in the file of the student.”

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

In 2001, the Arkansas Attorney General was asked whether a mental health provider in the state ever has a right or obligation to withhold “information (safety-related)” from the legal guardian of a minor. The Attorney General opined, in *Ark. Op. Atty. Gen. No. 2001-354*, that “[s]everal sources of state law [including rules adopted by licensing boards]... indicate that it is not only permissible, but usually required, for a mental health provider to withhold information from the legal guardian of a minor.”

Sexually Transmitted Disease

Ark. Code Ann. § 20-16-508 provides that with respect to medical or surgical care for sexually transmitted disease, a physician or member of the medical staff may, but is not obligated to, inform the spouse, parent, or guardian of any minor as to the treatment given or needed. This information may be given or withheld without the consent and over the express objection of the minor.

Substance Abuse

Ark Code Ann 6-17-107 provides that “[t]eachers and other school personnel in this state shall be immune from liability and suit for damages for communicating information in good faith concerning drug abuse by any pupil to that pupil’s parents, to law enforcement officers, or to healthcare providers.”

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.

Care in Certain Settings, Parent Consent

Ark. Code Ann. § 6-18-703 provides that minors shall not receive school-based health clinic services without parental consent. It further provides that “parental consent to contraceptive services and condom distribution shall be specific, in writing, and maintained in the student’s health records.”

Emergency Care

Ark. Code Ann. § 20-9-603 provides that consent for surgical or medical treatment or procedures will be implied where an emergency exists and:

- there is no one immediately available who is authorized to consent or
- there has been a protest or refusal of consent by an authorized person, no other person with authority to

consent is immediately available, and there has been a “material and morbid change in the condition of the affected person.” An emergency is a situation in which, in competent medical judgment, surgical or medical treatment is immediately or imminently necessary and any delay to obtain consent might reasonably be expected to jeopardize the life, health, or safety of the person affected or result in disfigurement or impaired faculties.

Ark. Code Ann. § 20-9-604 provides that a court also may give consent for surgical or medical treatment where an emergency exists if specific criteria are met.

Gender Affirming Care, Restriction

Ark. Code Ann. §§ 20-9-1501 – 20-9-1504 prohibits healthcare professionals from providing specified

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gender affirming care services to minors. However, a federal district court found the law unconstitutional and permanently enjoined its enforcement in *Brandt v Rutledge*, 2023 WL 4073727. See also *Brandt v Rutledge*, 551 F.Supp. 882 (E.D. Ark. 2021), affirmed in *Brandt v Rutledge*, 47 F.4th 661 (8th Cir. 2022).

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.

Minor Parent, Consent for Child

Ark. Code Ann. § 20-9-602(2) provides that any minor parent may consent for medical and surgical care for their biologic, adopted, step, or foster child, however, "the father of an illegitimate child" cannot consent for the child solely on the basis of parenthood.

Resources

Arkansas Code: <https://www.arkleg.state.ar.us/ArkansasLaw>

Arkansas Administrative Rules: https://www.ark.org/rules_and_regs/index.php/rules/search/new

CALIFORNIA

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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
- S** Reportable, Communicable, Infectious Disease Care
- 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
- S** Minor in Armed Forces
- S** Minor Living Apart from Parent/Guardian
- Minor Parent
- Minor in State Custody
- Pregnant Minor

Other

- S** Constitution
- S** Conversion Therapy,⁴ Ban
- S** Emergency
- S** Financial Responsibility
- S** Gender Affirming Care, Protection
- S** Intimate Partner Violence, Minor Consent
- S** Reproductive Freedom
- S** Shield Laws

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

Cal. Fam. Code § 6500 provides that the age of majority is 18 years.

Emancipation

Cal. Fam. Code §§ 7000 - 7143 describes the criteria for emancipation of minors, the procedures for obtaining a court declaration of emancipation, and the effects of emancipation.

Minor Marriage

Cal. Fam. Code §§ 7000 - 7143 describes the criteria for emancipation of minors, the procedures for obtaining a court declaration of emancipation, and the effects of emancipation.

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's Status**Emancipated Minor**

Cal. Fam. Code § 7050 provides that an emancipated minor may consent for medical, dental, or psychiatric care, without parental consent, knowledge, or liability.

Married Minor

Cal. Fam. Code § 7002 provides that a minor who has married or entered a valid domestic partnership is emancipated, and *Cal. Fam. Code § 7050* provides that an emancipated minor may consent for medical, dental and psychiatric care.

Minor in Armed Forces

Cal. Fam. Code § 7002 provides that a minor who is on active duty with the U.S. Armed Forces is emancipated, and *Cal. Fam. Code § 7050* provides that an emancipated minor may consent for medical, dental and psychiatric care.

Minor Living Apart from Parent/Guardian

Cal. Fam. Code § 6922 provides that a minor may consent for their own medical, vision or dental care if the minor is age 15 or older; the minor is living separate and apart from their parents or guardian with or without their consent and regardless of how long the minor has been living apart;

and the minor is managing their own financial affairs, regardless of the source of income. For a definition of "parent or guardian," "medical care," "dental care," and "vision care," see *Cal. Fam. Code §§ 6901-6904*.

Minor Consent—Services**Abortion**

Abortion is legal and protected in California. In 2022, *Article 1, section 1.1* was added to the California Constitution, which states: "The state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives." For up to date information on the status of abortion protections and restrictions in California, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

Minors may consent to abortion, and neither parental notice or consent is required. In *American Academy of Pediatrics v. Lungren*, 16 Cal. 4th 307 (1997), the California Supreme Court held that minors have the same right to privacy under Article 1, section 1 of the California Constitution as do adults and that this includes the right to decide whether

to continue or terminate a pregnancy. Thus, minors have the right to consent to or refuse their own abortions in California.

*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

Cal. Fam. Code § 6925 provides that a minor may consent for medical care related to the prevention of pregnancy. This includes all forms of contraception, including long-acting reversible contraceptive and emergency contraception. This section does not authorize sterilization of a minor without parental consent. For a definition of “medical care,” see *Cal. Fam. Code § 6902*.

In 2022, *Article 1, section 1.1* was added to the California Constitution, which states: “The state shall not deny or interfere with an individual’s reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives.”

*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

Cal. Fam. Code § 6924 provides that a minor age 12 or older may consent for outpatient mental health treatment or counseling if the minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient mental health treatment or counseling. This section does not authorize a minor to receive convulsive therapy, psychosurgery, or psychotropic drugs without the consent of the minor’s parent or guardian. *Cal. Fam. Code § 6924* includes definitions of “professional person” and “mental health treatment or counseling services.”

A second statute, *Cal. Health & Saf. Code § 124260*, provides that a minor age 12 or older may consent for outpatient mental health treatment or counseling if the minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient mental health treatment or counseling. *Cal. Health & Saf. Code § 124260* includes definitions of “professional person” and “mental health treatment or counseling services.” This section does not authorize a minor to receive convulsive therapy, psychosurgery, or psychotropic drugs without the consent of the minor’s parent or guardian.

If a minor qualifies to consent to care under both statutes, the provider may elect which one to use.

Pregnancy-Related Care

Cal. Fam. Code § 6925 provides that a minor may consent for medical care related to the prevention or treatment of pregnancy. This section does not authorize sterilization of a minor without parental consent. For a definition of “medical care,” see *Cal. Fam. Code § 6902*.

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

Cal. Fam. Code § 6926 provides that a minor who is age 12 or older and who may have come into contact with an infectious, contagious, or communicable disease may consent for medical care related to the diagnosis or treatment of the disease, if the disease or condition is one that is required to be reported to the local health officer as determined by the State Director of Health Services. A list of reportable diseases is contained in *Cal. Code Regs. Title 17, § 2500(j)*.

Sexual Assault Care

Cal. Fam. Code § 6927 provides that a minor age 12 or older who is alleged to have been raped may consent for medical care related to diagnosis or treatment of the condition and collection of medical evidence with regard to the alleged rape.

Cal. Fam. Code § 6928 provides that a minor who is alleged to have been sexually assaulted may consent for medical care related to the diagnosis and treatment of the condition and collection of medical evidence with regard to the alleged sexual assault.

Sexually Transmitted Infection/Disease/HIV Care

Cal. Fam. Code § 6926 provides that a minor age 12 or older may consent to medical care related to the prevention of a sexually transmitted disease. *Cal. Fam. Code § 6926* provides that a minor age 12 or older may consent for medical care for the diagnosis or treatment of a sexually transmitted disease that is either a reportable infectious, contagious, or communicable disease or a sexually transmitted disease that is not reportable, as determined by the Department of Health Services. A list of non-reportable sexually transmitted diseases for which minors may consent for diagnosis or treatment as determined by the Department of Health Services is contained in *Cal. Code Regs. Title 17 § 5151*. A list of reportable diseases is contained in *Cal. Code Regs. Title 17, § 2500(j)*. HIV is included in the list of reportable diseases.

Cal. Health & Safety Code § 120990 provides that written or oral informed consent is generally required for an HIV test and also states certain exceptions to the requirement.

Cal. Health and Safety Code § 121020 provides that a minor is not competent to give consent for an HIV test if he or

she is under age 12. When the subject of an HIV test is not competent to give consent for the test, written consent for the test may be obtained from the subject's parents, guardians, conservators, or other person legally authorized to make health care decisions for the subject. If the minor is a dependent of the court, written consent for an HIV test may be obtained from the court. Written consent shall only be obtained from someone other than the minor when it is necessary to render appropriate care or to practice preventive measures. *Cal. Code Regs. Title 17, § 2500(j)* lists HIV as a reportable and communicable disease.

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

Cal. Fam. Code § 6929 provides that a minor age 12 or older may consent for medical care and counseling related to diagnosis and treatment of "a drug or alcohol related problem." § 6929 also provides that it does not restrict or eliminate the right of a parent to seek medical care or counseling for a drug or alcohol related problem of a minor

when the minor does not consent. *Cal. Fam. Code § 6929* includes definitions of "counseling" and "drug or alcohol."

Cal. Fam. Code § 6929.1 authorizes a minor 16 years of age or older to consent to opioid use disorder treatment that uses buprenorphine at a physician's office, clinic, or health facility, by a licensed physician and surgeon or other health care provider acting within the scope of their practice.

Cal. Fam. Code § 6929(e)(2) authorizes a minor 16 or older to consent to receive medications for opioid use disorder from a licensed narcotic treatment program as replacement narcotic therapy without needing the consent of the minor's parent or guardian only if, and to the extent, expressly permitted by federal law.

Other than these exceptions for minors age 16 or older, *Cal. Fam. Code § 6929* provides that minors are not authorized to receive narcotic therapy, in a program licensed pursuant to Article 1 (commencing with Section 11839) of Chapter 10 of Part 2 of Division 10.5 of the Health and Safety Code, without parental consent.

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

Cal. Health & Saf. Code §§ 123110 and 123115 and *Cal. Civ. Code §§ 56.10 and 56.11* provide that the parent or guardian of a minor is entitled to access to and to control disclosure of an unemancipated minor's protected health

information; however, when a minor consents to or could have consented to care under state or other law, the minor controls access to and release of the related health information.

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

Except as outlined in the statutes summarized below, *Cal. Health & Saf. Code* §§ 123110, 123115, and *Cal. Civ. Code* §§ 56.10, 56.11 provide that when a minor consents to or could have consented to care under state or other law, a provider cannot disclose information to the minor's parents or guardians without a release from the minor patient.

Minor Living Apart

Cal. Fam. Code § 6922 provides that when a minor consents for their own care based on being 15 years of age or older and living apart from their parents, the physician, surgeon, or dentist may inform the parents of the minor of the treatment given or needed, without the consent of the minor, if the physician, surgeon, or dentist knows the whereabouts of the minor's parents on the basis of information given by the minor.

Sexual Assault under Family Code § 6928

Cal. Fam. Code § 6928 provides that the professional person providing medical treatment shall attempt to contact the minor's parent or guardian and shall note in the minor's treatment record the date and time the professional person attempted to contact the parent or guardian and whether the attempt was successful or unsuccessful. This subdivision does not apply if the professional person reasonably believes that the minor's parent or guardian committed the sexual assault on the minor. (Note: *Family Code* § 6927, specific to services related to rape of minors 12 and older does not contain the same language.)

Substance Use

Cal. Fam. Code § 6929 provides that when a minor consents for medical care or counseling relating to the diagnosis or treatment of a drug or alcohol related problem, the treatment plan shall include the minor's parent or guardian, if appropriate, as determined by the treating professional

or treatment facility. The treating professional shall state in the treatment record whether and when contact with the parent or guardian was attempted and, if so, whether it was successful, or why it was inappropriate to contact the parent or guardian. When a parent or legal guardian seeks out and consents for medical care or counseling for a drug or alcohol related problem of a minor child, the physician shall disclose medical information concerning such care to the minor's parent or guardian upon their request even if the minor does not consent to disclosure.

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

Ca. Civ. Code § 56.107 provides that a health care service plan cannot require a minor to obtain the authorization of their insurance policy holder (such as a parent or caregiver) to submit a claim for services to which the minor may consent. The health care service plan must direct all communications regarding receipt of such services directly to the minor as follows: If the minor has provided the health care service plan with alternative address, email or telephone number, the plan must make all communications using that alternative. If the minor has not provided an alternative address, email or telephone to the health care service plan, then the plan must make all communications using the address on file in the name of the minor. Communications include written, verbal and electronic communications related to billing and payment, explanations of benefits, notices of contents or adverse claims, requests for more information, any communication that contains protected health information or the name and address of the provider, description of services provided and other information related to a minor consent visit. A health care service plan must permit minors to request

confidential communications using a “confidential communications request” and must implement them within 7 calendar days of receipt of an electronic or telephonic request or 14 calendar days of receipt of a request by first class mail. The plan must acknowledge receipt and advise the minor of the status of its implementation. For definitions, see *Cal. Civ. Code* § 56.05.

Cal. Ins. Code § 791.29 provides that a “health insurer” must allow minors to request “confidential communications” and must accommodate such requests if the request relates to receipt of minor consent health care. For definitions, see *Cal. Ins. Code* § 791.

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

In 2022, *Article 1, section 1.1* was added to the California Constitution, which states: “The state shall not deny or interfere with an individual’s reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives.”

Article 1, section 1 states: “All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.”

“Conversion Therapy,” Ban

For up to date information on the status of statutes or case law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors in all 50 states and DC, see [Movement Advancement Project’s “Equality Maps: Conversion “Therapy” Laws.”](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

Cal. Bus. & Prof. Code § 2397 provides that a physician or other licensed health care professional is not liable for failing to obtain informed consent if a procedure was performed on a person legally incapable of giving consent and the physician reasonably believed that a medical procedure should be undertaken immediately and that there was insufficient time to obtain the informed consent of a person authorized to give such consent for the patient. An emergency is defined as a situation requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of severe medical conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

Financial Responsibility

Cal. Fam. Code §§ 6922 and 6926 provide that the parents

or guardian of a minor who is 15 years of age or older who is living apart from them and who has consented for his or her own medical or dental care or of a minor who is 12 years of age or older who has consented for and received care for a reportable infectious, contagious, or communicable disease or for a sexually transmitted disease are not financially responsible for the care.

Cal. Fam. Code §§ 6924 and 6929 provide that the parent or guardian of a minor who has consented for and received care or counseling related to the diagnosis or treatment of a “drug or alcohol related problem” or of a minor who has consented for and received outpatient mental health treatment or counseling is not financially responsible for the care, unless the parent or guardian participates in the counseling, and then only for services rendered with the participation of the parent or guardian.

Gender Affirming Care, Protection

Cal. Civ. Code § 1798.301 provides that “reproductive health care services, gender-affirming health care services, and gender-affirming mental health care services are rights secured by the Constitution and laws of California. Interference with these rights, whether or not under the color of law, is against the public policy of California.” *Cal Welf. & Inst. Code* § 16010.2 defines gender affirming health and mental health care services for this purpose. See also Shield Laws below.

For up to date information on the status of 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.

Intimate Partner Violence, Minor Consent

Cal. Fam. Code § 6930 provides that a minor age 12 or older who states that they were injured as a result of intimate partner violence may consent for medical care related to

the diagnosis or treatment of the injury and the collection of medical evidence with regard to the alleged violence.
Reproductive Freedom

In 2022, Article 1, section 1.1 was added to the California Constitution, which states: "The state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives."

Cal. Civ. Code § 1798.301 provides that "reproductive health care services, gender-affirming health care services, and gender-affirming mental health care services are rights secured by the Constitution and laws of California. Interference with these rights, whether or not under the color of law, is against the public policy of California."

Shield Laws

California has passed several statutes designed to shield health care providers when they provide "legally protected health care" and protect patients who receive this care. For example, *Cal. Civ. Code § 1798.303* provides that "if a person, whether or not acting under color of law,

engages or attempts to engage in abusive litigation that infringes on or interferes with, or attempts to infringe on or interfere with, a legally protected health care activity, then an aggrieved person, provider, carrier, or other entity, including a defendant in the abusive litigation, may institute a civil action for injunctive, monetary, or other appropriate relief within three years after the cause of action accrues." *Cal. Civ. Code § 1798.300* defines "gender-affirming care," "Legally protected health care," and "reproductive health care" for this purpose. See also *Cal. Civ. Code §§ 1798.302, 1798.304, Cal. Bus. & Prof. Code §§ 850.1, 852*.

These laws are changing rapidly so consultation with counsel is essential.

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

For up to date information on shield laws for gender affirming care, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth"](#).

Resources

California Statutes: <https://leginfo.legislature.ca.gov/faces/codes.html>

California Code of Regulations: <https://oal.ca.gov/publications/ccr/>

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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

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- S** **F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
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- Reportable, Communicable, Infectious Disease Care
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- High School Graduate
- S** Married Minor
- Minor, Age or Maturity
- Minor in Armed Forces
- S** Minor Living Apart from Parent/Guardian
- Minor Parent
- S** Minor in State Custody
- Pregnant Minor

Other

- S** Anatomical Gift/Donation
- S** Conversion Therapy,⁴ Ban
- S** Electroconvulsive Treatment, Restriction
- S** Financial Responsibility
- S** Gender Affirming Care
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Parent, Consent for Child's Care
- S** Reproductive Freedom
- S** Shield Laws

Key

State law found⁵

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

Colo. Rev. Stat. § 13-22-101 provides that the age of majority is 18 years for certain purposes, including “to make decisions in regard to his own body and the body of his issue, whether natural or adopted by such person, to the full extent allowed to any other adult person.”

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. However, references to emancipated minors are found in many sections of state law. For example, *Colo. Rev. Stat. § 19-7-307* provides for a minor in foster care to

petition for emancipation from the foster system. *Colo. Rev. Stat. § 19-2.5-203* defines “emancipated juvenile” for purposes of juvenile justice proceedings. *Colo. Rev. Stat. § 13-21-107.5* defines “emancipated minor” for purposes of damages claims in court. *Colo. Rev. Stat. § 25-4-902* provides that an “emancipated student” under age 18 may authorize immunization for school purposes. *Colo. Rev. Stat. § 1519-204* authorizes an emancipated minor to make an anatomical gift. *Colo. Rev. Stat. § 15-14-210* refers to emancipation as a basis for termination of guardianship.

Minor Marriage

Colo. Rev. Stat. §§ 14-2-106 and 14-2-108 provide that minors age 16 years and older may marry with judicial approval.

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’s Status**Emancipated Minor**

No statute explicitly grants emancipated minors the right to consent to health care generally, but several statutes provide this right in specific circumstances. For example, *Colo. Rev. Stat. § 25-4-902* provides that an “emancipated student” under age 18 may authorize immunization for school purposes, and *Colo. Rev. Stat. § 15-19-204* authorizes an emancipated minor to consent to donation of the minor’s body or body part.

Married Minor

Colo. Rev. Stat. §§ 13-22-103 and 14-2-109.3 provide that any married or divorced minor may consent for hospital, medical, dental, emergency health, and surgical care, as well as tissue or organ donation; and parent consent is not necessary.

Minor Living Apart from Parent/Guardian

Colo. Rev. Stat. § 13-22-103 provides that any minor age 15 or older who is living separate and apart from their parents or legal guardian, with or without their consent, and is managing their own financial affairs, regardless of the source of income, may consent for hospital, medical, dental, emergency health, and surgical care as well as organ or tissue donation and parent consent is not necessary. When such consent is given, the minor shall have the same rights, powers, and obligations as if they had reached the age of majority. *Colo. Rev. Stat. § 25-6-102* prohibits an unmarried person under age 18 years from consenting to permanent sterilization without parent or guardian consent.

Minor in State Custody

Colo. Rev. Stat. § 18-1.3-407(4.5) provides that the consent of the parent, parents, or legal guardian of a minor who

has been sentenced to the youthful offender system is not necessary in order to authorize hospital, medical, mental health, dental, emergency health, or emergency surgical care. *Colo. Rev. Stat. § 25-6-102* prohibits an unmarried person under age 18 years from consenting to permanent sterilization without parent or guardian consent.

Minor Consent—Services

Abortion

Abortion is legal and protected in Colorado. As a general matter, *Colo. Rev. Stat. § 25-6-403* provides that every “pregnant individual has a fundamental right to continue a pregnancy and give birth or to have an abortion and to make decisions about how to exercise that right” and *Colo. Rev. Stat. § 25-6-404* prohibits any public entity from denying, restricting, interfering with, or discriminating against an individual’s fundamental right to have an abortion. *For up to date information on the status of abortion protections and restrictions in Colorado, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).*

A minor may consent for abortion, however *Colo. Rev. Stat. §§ 13-22-704 - 13-22-708* require parent or guardian notice before an abortion may be performed upon an unemancipated minor under age 18; and the abortion cannot be performed until at least 48 hours after written notice of the abortion has been delivered personally or via postpaid certified mail to a parent. The law contains a judicial bypass and exceptions for emergencies and for child abuse and neglect. *Colo. Rev. Stat. § 13-22-704* and *Colo. R. Civ. Procedure. 2(a)* provide the procedures for obtaining a judicial bypass. *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

Colo. Rev. Stat. § 13-22-105 provides that, with the consent of the minor, a licensed, certified, or registered health care provider acting within the provider’s scope of practice may furnish contraceptive procedures, supplies, or information to a minor without notification to or the consent of the minor’s parent or parents, legal guardian, or any other person having custody of or decision-making responsibility for the minor.

Colo. Rev. Stat. § 25-6-102 provides that all medically acceptable contraceptive procedures, supplies, and information must be readily accessible to each person regardless of sex, sexual orientation, gender identity,

gender expression, race, age, income, number of children, marital status, citizenship, or motive. However, unmarried minors may not consent to permanent sterilization without the consent of a parent or guardian.

Colo. Rev. Stat. § 25-6-404 prohibits any public entity from denying, restricting, interfering with, or discriminating against an individual’s fundamental right to (a) use or refuse contraception, (b) continue a pregnancy and give birth, or (c) have an abortion.

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

Age 15 or older:

Colo. Rev. Stat. § 27-65-104 provides that a minor who is age 15 years or older may consent to receive “mental health services” with or without the consent of a parent or legal guardian rendered by a facility, a professional person, or mental health professional.

Age 12 or older:

Colo. Rev. Stat. § 12-245-203.5 provides that a “mental health professional” may provide outpatient psychotherapy services to a minor who is age 12 years or older without the consent of the minor’s parent or legal guardian, if the mental health professional determines that:

- (a) the minor is knowingly and voluntarily seeking such services, and
- (b) the provision of psychotherapy is clinically indicated and necessary to the minor’s well-being.

For purposes of *Colo. Rev. Stat. § 12-245-203.5*, *Colo. Rev. Stat. § 12-245-202* defines “psychotherapy services” as “treatment, diagnosis, testing, assessment, or counseling in a professional relationship to assist individuals or groups to alleviate behavioral and mental health disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors that interfere with effective emotional, social, or intellectual functioning. Psychotherapy follows a planned procedure of intervention that takes place on a regular basis, over a period of time, or in the cases of testing, assessment, and brief psychotherapy, psychotherapy can be a single intervention.”

Colo. Rev. Stat. § 12-245-203.5 provides that a minor may not refuse psychotherapy services when a mental health professional and the minor’s parent or legal guardian agree psychotherapy services are in the best interest of the minor. *Colo. Rev. Stat. § 12-245-203.5* includes definitions of “mental health professional” and “psychotherapy services” relevant to that provision.

Pregnancy-Related Care

Colo. Rev. Stat. § 13-22-103.5 provides that, notwithstanding other provisions, pregnant minors may consent to their own prenatal, delivery, and post-delivery medical care related to the intended live birth of a child.

Colo. Rev. Stat. § 25-6-404 prohibits any public entity from denying, restricting, interfering with, or discriminating against an individual's fundamental right to (a) use or refuse contraception, (b) continue a pregnancy and give birth, or (c) have an abortion.

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

Colo. Rev. Stat. § 13-22-106 provides that with the consent of a minor who indicates that they were the victim of a sexual offense, under *Colo. Rev. Stat. Title 13, Article, 3, Part 4*, a licensed physician may perform the customary and necessary examinations to obtain evidence of the sexual offense, and may prescribe for and treat the minor for any immediate condition caused by the sexual offense. However, the provider must make a reasonable effort to notify the parents or guardians or any other person with custody or medical decision-making authority for the minor prior to commencing examination or treatment of the minor. If the parent or guardian or person with custody or medical decision-making authority objects to treatment, the provider may examine and treat the minor, but the provider must make a child abuse report to the county department or local law enforcement agency pursuant to Colorado mandated reporting law, *Colo. Rev. Stat. §§ 19-3-301 – 19-3-318*.

Colo. Rev. Stat. § 13-22-106 provides that if a minor is unable to give consent by reason of age or mental or physical condition and it appears that the minor has been the victim of a sexual offense, the physician shall not examine or treat the minor but shall proceed with a mandated child abuse report.

Sexually Transmitted Infection/Disease/HIV Care

Colo. Rev. Stat. § 25-4-409 provides that any health-care provider or facility may, upon a minor's request, perform a diagnostic examination on the minor for a sexually transmitted infection (STI), treat the minor for a STI, or discuss, administer, dispense, or prescribe preventive measures or medications for STIs without the consent or notification of the minor's parent. *Colo. Rev. Stat. § 25-4-402* includes a definition of "sexually transmitted infections" that includes HIV.

Colo. Rev. Stat. § 25-4-403 provides that programs and services that provide for the investigation, identification, testing, preventive care, and treatment of sexually transmitted infections are available regardless of a person's actual or perceived race, creed, color, ancestry, national origin, religion, age, sex sexual orientation, gender identity,

mental or physical disability, familial status, or immigration status.

Colo. Rev. Stat. § 25-4-410 specifies consent and counseling requirements for STI testing and treatment.

Colo. Rev. Stat. § 25-4-411 includes provisions for confidential and anonymous HIV counseling and testing.

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

Colo. Rev. Stat. § 13-22-102 provides that notwithstanding any other provision of law, a minor may consent for examination, prescription, and treatment for use of drugs or a substance use disorder without the consent of or notification to their parents or guardian.

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

Colo. Rev. Stat. §§ 25-1-801 and 25-1-802 provide that medical records in the custody of a health facility or health care provider are subject to inspection by the patient or patient’s designated representative with a few exceptions. These sections specify the types of “health facility” and “health care provider” covered by the requirements. These sections do not require a person responsible for the diagnosis or treatment of minors for sexually transmitted infections pursuant to *Colo. Rev. Stat. § 25-4-409.1* or for diagnosis or treatment of a substance use disorder or use of drugs pursuant to *Colo. Rev. Stat. § 13-22-102* to release patient records of such diagnosis or treatment to a parent or guardian.

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

Colo. Rev. Stat. § 27-65-104 provides that a professional person providing mental health services to a minor age 15 years or older who has given their own consent for the services may, with or without the minor’s authorization, advise the parent or legal guardian of the services given or needed.

Colo. Rev. Stat. § 12-245-203.5, provides that if a minor age 12 years or older receives mental health services based on their own consent the mental health professional may notify the minor’s parent or legal guardian of psychotherapy services given or needed, with the minor’s consent, unless notifying the parent or guardian would be inappropriate or detrimental to the minor’s care. The mental health professional shall engage the minor in a discussion about the importance of involving and notifying the minor’s parent or legal guardian and shall encourage notification to help support the minor’s care and treatment. The professional must document when attempts to contact or notify a parent or guardian are made and whether the attempt was successful or unsuccessful.

Colo. Rev. Stat. § 12-245-203.5 also provides that a mental health professional may notify the parent or guardian of services given or needed, without the minor's consent, if the mental health professional, in their professional opinion, believes the minor is unable to manage the minor's care or treatment.

Colo. Rev. Stat. § 12-245-203.5 provides that a mental health professional is required to notify a minor's parents or legal guardian if a minor receiving psychotherapy services communicates a serious threat of imminent physical violence against a specific person/s, unless such notification would be inappropriate or detrimental to the minor's care and treatment.

Sexually Transmitted Infection

Colo. Rev. Stat. § 25-4-409 provides that diagnosis, care, treatment, and prevention for a sexually transmitted infection provided to a minor are confidential and a healthcare provider or facility must not disclose information related to that care to any person other than the minor if the minor is older than age 13 years. A healthcare provider or facility may – based on their discretion – involve the minor's parent or legal guardian if the minor is age 13 years or younger. A health-care provider is required to counsel the minor on the importance of bringing the minor's parent or legal guardian into the minor's confidence regarding the consultation, exam, or treatment.

Sexual Offense

Colo. Rev. Stat. § 13-22-106 provides that prior to examining or providing treatment to a minor who claims they are a victim of a sexual offense, the physician shall make a reasonable effort to notify the parent or guardian of the minor.

Substance Use

Colo. Rev. Stat. § 13-22-102 provides that a physician is not required to notify the parent or guardian of any examination

or treatment of a minor for substance use disorder or use of drugs.

HIPAA rules relevant to disclosure to parents/guardians

See **Appendix H** for information about minors' access to and control of their medical information under HIPAA when they have consented to their own care, the HIPAA rule when state law is silent as to parent access, and the HIPAA rule authorizing providers to limit access to records in certain circumstances.

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

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

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

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

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

Insurance Claims/ Billing

See **Appendix L** for information about confidentiality protection in the billing and insurance claims process under the HIPAA Privacy Rule.

Other

This section summarizes a range of laws that may not explicitly address minor consent or disclosure of information but that health care providers often have questions about when minors seek care, especially when they seek care on their own.

Anatomical Gift/Donation

Colo. Rev. Stat. § 15-19-204 provides that emancipated minors may make an anatomical gift of the minor's body or body part during their lifetime.

Colo. Rev. Stat. § 13-22-103 provides that a minor living apart from parents or guardian may consent to tissue or organ donation.

"Conversion Therapy," Ban

For up to date information on the status of statutes or case law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors in all 50 states and DC, see [Movement Advancement Project's "Equality Maps: Conversion "Therapy" Laws."](#) These laws are changing rapidly so consultation with counsel is essential.

Electroconvulsive Treatment, Restriction

Colo. Rev. Stat. § 13-20-403 prohibits electroconvulsive treatment on a minor under age 16 years. Electroconvulsive treatment may be performed on a minor age 16 years or older only with the concurring approval of two persons licensed to practice medicine and specializing in psychiatry and a parent or guardian of such minor.

Financial Responsibility

Colo. Rev. Stat. § 13-22-103 provides that a health care professional who relies in good faith on the consent of a minor who is living apart from his or her parents or guardian or who is married is not liable to the parents or guardian for failure to obtain their consent for the care.

Colo. Rev. Stat. § 18-1.3-407(4.5) provides that the parent, parents, or legal guardian of a minor in the youthful offender system is not liable to pay the charges for the care provided to the minor based on the minor's consent.

Gender Affirming Care

There are no restrictions on access to gender affirming care in Colorado law at this time.

For up to date information on the status of restrictions on gender affirming care for minors, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth."](#) See also [Appendix G](#) for further information about gender-affirming care.

Good Faith Reliance/Immunity from Liability

Colo. Rev. Stat. § 13-22-103 provides that a health care professional who relies in good faith on the consent of a minor who is living apart from their parents or guardian or who is married is not liable to the parents or guardian for failure to obtain their consent for the care.

Colo. Rev. Stat. § 18-1.3-407(4.5) provides that neither the department nor any hospital, physician, surgeon, mental health-care provider, dentist, trained emergency health-care provider, or agent or employee thereof who, in good faith, relies on the consent of a minor in the Youthful Offenders System is liable for civil damages for failure to secure the consent of the minor's parent, parents, or legal guardian prior to rendering such care.

Colo. Rev. Stat. § 13-22-102 provides that a licensed physician incurs no civil or criminal liability for examining, prescribing, or treating a minor for use of drugs or a substance use disorder without the consent or notification of the minor's parents or legal guardian, so long as the minor consents.

Colo. Rev. Stat. § 13-22-103 provides that a health care professional who relies in good faith on the consent of a minor who is living apart from his or her parents or guardian or who is married shall not be liable for civil damages for

failure to secure consent of the minor's parent/s or legal guardian/s.

Colo. Rev. Stat. § 25-4-409 provides that when a minor consents to an examination, administration of preventive services, or treatment for a sexually transmitted infection, the responsible health-care provider is immune from civil or criminal liability on the basis of the patient's minority status.

Minor Parent, Consent for Child's Care

Colo. Rev. Stat. § 13-22-103 provides that any minor parent may consent for hospital, medical, dental, emergency health, and surgical care for their child. *Colo. Rev. Stat. § 13-22-103(3)* provides that any parent – including a parent who is a minor – may request and consent to the furnishing of hospital, medical, dental, emergency health, or surgical care, as well as organ and tissue donation, for their child or ward.

Reproductive Freedom

Colo. Rev. Stat. § 25-6-403 provides that "[e]very individual has a fundamental right to make decisions about the individual's reproductive health care, including the fundamental right to use or refuse contraception" and "a pregnant individual has a fundamental right to continue a pregnancy and give birth or to have an abortion and to make decisions about how to exercise that right."

Colo. Rev. Stat. § 25-6-404 provides that a public entity shall not "[d]eny, restrict, interfere with, or discriminate against an individual's fundamental right to use or refuse contraception or to continue a pregnancy and give birth or to have an abortion in the regulation or provision of benefits, facilities, services, or information."

Shield Laws

Colorado has passed a series of laws to provide protections for health care providers and patients against disciplinary actions, adverse licensing actions, civil actions, and criminal prosecutions and procedures, both in state and from out of state, based solely on the provision, receipt, assistance, or support for reproductive health care services and gender-affirming health services that are "legally protected health-care activity" permitted under the laws of Colorado and were provided in accordance with the applicable standard of care. Examples of these laws are found at *Colo. Rev. Stat. §§ 10-4-109.6, 10-16-121, 12-30-121, 16-5-104, and 18-13-133*.

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

For up to date information on shield laws for gender affirming care, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth."](#)

Resources

Colorado Revised Statutes <https://leg.colorado.gov/agencies/office-legislative-legal-services/colorado-revised-statutes>

Colorado Code of Regulations <https://www.sos.state.co.us/CCR/Welcome.do>

CONNECTICUT

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- S** Emancipation
- S** Minor Marriage

Minor Consent to Health Care—Services

- S** Abortion³
- Emergency Care
- F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- F** Pregnancy Related Care
- Reportable, Communicable, Infectious Disease Care
- 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
- Married Minor
- Minor, Age or Maturity
- Minor in Armed Forces
- Minor Living Apart from Parent/
Guardian
- Minor Parent
- Minor in State Custody
- Pregnant Minor

Other

- S** Conversion Therapy,⁴ Ban
- S** Financial Responsibility
- Gender Affirming Care
- S** Minor Parent, Consent for Child's Care
- S** Shield Laws

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

Conn. Gen. Stat. § 1-1d provides that the age of majority is 18.

Emancipation

Conn. Gen. Stat. §§ 46b-150 – 46b-150d provide that any minor who has reached age 16 years and resides in the state may petition for emancipation and describe the criteria for and effects of a court declaration of emancipation.

Conn. Gen. Stat. § 46b-150e provides that the state also recognizes that minors may become emancipated under common law.

Minor Marriage

Conn. Gen. Stat. § 46b-20a provides that persons must be at least 18 years of age to marry. *2023 Ct. ALS 44, 2023 Ct. P.A. 44, 2023 Ct. HB 6569* repealed the authorization for minors age 16 or 17 years to marry if they met certain requirements.

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's Status**Emancipated Minor**

Conn. Gen. Stat. § 46b-150d provides that an emancipated minor may consent for medical, dental, or psychiatric care, without parental consent, knowledge, or liability.

Minor Consent—Services**Abortion**

Abortion is legal and protected in Connecticut. *Conn. Gen. Stat. § 19a-602* provides that the decision to terminate a pregnancy before viability of the fetus is the decision solely of the patient, in consultation with the patient's physician, advanced practice registered nurse, nurse-midwife, or physician assistant. *For up to date information on the status of abortion protections and restrictions in Connecticut, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).*

Minors may consent to abortion and parental notice or consent is not required. *Conn. Gen. Stat. § 19a-601* provides that prior to performing an abortion on a minor

under age 16, a physician or counselor must provide pregnancy information and counseling in a way that the minor can understand it. The physician or counselor shall provide specific information and counseling as set forth in the statute including, but not limited to, information on the alternative choices for managing the pregnancy, an explanation concerning the public and private agencies available to assist the minor, and discussion of the possibility of involving the minor's parents, guardian, or other adult family members. The provision of pregnancy information and counseling must be evidenced in writing and signed by the minor. The requirements for information and counseling do not apply when, in the best medical judgment of the physician, a medical emergency exists that so complicates the pregnancy or health, safety or well-being of the minor that an immediate abortion is necessary. *Conn. Gen. Stat. § 19a-600* defines "counselor" for this purpose.

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 consent to family planning services or contraception.

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

Conn. Gen. Stat. § 19a-14c provides that a licensed psychiatrist, psychologist, or marital and family therapist, or a licensed clinical social worker may provide “outpatient mental health treatment” to a minor without the consent or notification of a parent or guardian at the request of the minor if specified criteria are met. Outpatient mental health treatment may be provided without the consent or notification of a parent or guardian if: (1) requiring parental or guardian consent or notification would cause the minor to reject such treatment; and (2) the provision of such treatment is clinically indicated; and (3) the failure to provide such treatment would be seriously detrimental to the minor’s well-being; and (4) the minor has knowingly and voluntarily sought such treatment; and (5) in the opinion of the provider, the minor is mature enough to participate productively in the treatment.

Conn. Gen. Stat. § 19a-14c further requires the provider to document the reasons for a determination to treat a minor without the consent or notification of a parent or guardian. Such documentation must be included in the minor’s record, with a written statement signed by the minor stating that: the minor (A) is voluntarily seeking treatment; (B) has discussed with the provider the possibility of involving a parent or guardian; (C) has determined it is not in their best interest to involve their parent or guardian; and (D) the minor has been given adequate opportunity to ask questions about the course of their treatment.

“Outpatient mental health treatment” is defined in the statute and does not include the provision of prescription medications. A minor may receive as many outpatient mental health treatment sessions as necessary without the consent or notification of a parent or guardian.

Pregnancy Related Care

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

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

Sexually Transmitted Infection/Disease/HIV Care

Conn. Gen. Stat. § 19a-216 provides that any specified health facility or licensed physician may examine and provide treatment for sexually transmitted disease for a minor without the consent of a parent or guardian.

Conn. Gen. Stat. § 19a-592 provides that any licensed physician, physician assistant, or advanced practice registered nurse may examine and provide prophylaxis or treatment for human immunodeficiency virus infection, or acquired immune deficiency syndrome for a minor without the consent of the parents or guardian of the minor if the healthcare provider determines that notification of the parents or guardian of the minor will result in prophylaxis or treatment being denied or the physician, physician assistant or advanced practice registered nurse determines the minor will not seek, pursue or continue prophylaxis or treatment if the parents or guardian are notified and the minor requests that his or her parents or guardian not be notified; otherwise parent consent is required. The physician, physician assistant or advanced practice registered nurse shall fully document the reasons for the determination to provide prophylaxis or treatment without the consent or notification of the parents or guardian of the minor and shall include such documentation, signed by the minor, in the minor’s clinical record. As used in this subsection, “prophylaxis” means the use of medication, but does not include the administration of any vaccine, to prevent disease.

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

Conn. Gen. Stat. § 17a-688 provides that a minor may give consent for treatment and rehabilitation for “alcohol or drug dependence.” *Conn. Gen. Stat. § 17a-680* defines “treatment” for this purpose to mean “any emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social services, vocational and social rehabilitation and other appropriate services, which may be extended to alcohol-dependent persons, drug-dependent persons and intoxicated persons.”

Conn. Gen. Stat. § 19a-14c provides that a licensed psychiatrist, psychologist, or marital and family therapist, or a licensed clinical social worker may provide “outpatient mental health treatment” to a minor without the consent or notification of a parent or guardian at the request of the minor if specified criteria are met. *Conn. Gen. Stat. § 19a-14c(c)(2)(B)* suggests that the outpatient mental health may include treatment for a substance use disorder.

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

Conn. Gen. Stat. § 17b-59e provides that “[n]othing in this section shall be construed to require a health care provider to share patient information with the State-wide Health Information Exchange if (1) sharing such information is prohibited by state or federal privacy and security laws, or (2) affirmative consent from the patient is legally required and such consent has not been obtained.”

Reproductive Health and Gender-Affirming Health Services

Conn. Gen. Stat. §§ 52-146w and 52-146x provide that no covered entity shall disclose information related to reproductive health services or gender-affirming health services in a civil or probate, legislative or administrative proceeding unless the patient or that patient’s conservator, guardian or other authorized legal representative explicitly consents in writing to such disclosure, except in specific circumstances.

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

Emancipated Minor

Conn. Gen. Stat. § 46b-150d provides that an emancipated minor may receive medical, dental, or psychiatric care, without parental knowledge.

Mental Health

Conn. Gen. Stat. § 19a-14c states that providers shall not notify a parent or guardian of outpatient mental health treatment, or disclose any information concerning such treatment, without the consent of a minor, when the treatment was provided without consent or notification to a parent or guardian. Providers may only disclose information to a parent or guardian if the provider determines that disclosure is necessary for the minor’s well-being, and only if the treatment is solely for mental health and not

for a substance use disorder. Further, the minor must be provided an opportunity to express objections, which must be documented in the record. The limited information that may be disclosed to the parent or guardian under those circumstances is contained in *Conn. Gen. Stat. § 19a-14c(c) (2)*.

Sexually Transmitted Infection/HIV

Conn. Gen. Stat. § 19a-216 provides that the fact of consultation, examination, and treatment for sexually transmitted disease that is provided to a minor without parental consent shall be confidential, including with respect to the sending of a bill to any person other than the minor.

Conn. Gen. Stat. § 19a-592 provides that the fact of consultation, examination and prophylaxis or treatment of a minor for HIV or AIDS shall be confidential and not be divulged without the minor's consent, including the sending of a bill to any person other than the minor, until the provider consults with the minor regarding the sending of a bill.

Substance Use

Conn. Gen. Stat. § 17a-688 provides that the fact that a minor sought or is receiving treatment or rehabilitation for alcohol or drug dependence for which the minor may give consent must not be reported or disclosed to the parents or guardian without the minor's consent.

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

Conn. Gen. Stat. § 38a-477d provides that a patient who is a covered individual on a health insurance policy and who is legally capable of consenting to the health care sought, may request that Explanations of Benefits be suppressed, or be issued solely to the patient and be issued to an alternative mailing address or electronic address.

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 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.

Financial Responsibility

Conn. Gen. Stat. § 46b-150d provides that an emancipated minor may receive medical, dental, or psychiatric care, without a parent being financially responsible for the care.

Conn. Gen. Stat. §§ 19a-285, 19a-216, 19a-592, and 17a-688

provide that minors who consent for care for their child, or for services for sexually transmitted disease, including HIV or AIDS, or alcohol or drug dependence for themselves, are financially responsible for the services.

Conn. Gen. Stat. § 19a-14c provides that a parent or guardian who is not informed of the provision of outpatient mental health treatment for their minor child is not financially responsible for the treatment.

Gender Affirming Care

There are no restrictions on access to gender affirming care in Connecticut law at this time.

For up to date information on the status of restrictions on gender affirming care for minors, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth."](#) See also [Appendix G](#) for further information about gender-affirming care.

Minor Parent, Consent for Child's Care

Conn. Gen. Stat. § 19a-285 provides that any minor who has been married or who has borne a child may consent for medical, dental, health, and hospital services for their child.

Shield Laws

Connecticut has passed a series of laws to provide protections for health care providers against disciplinary actions, adverse licensing actions, and civil actions both in state and from out of state based solely on the provision, receipt, assistance, support for, or liability derived from

reproductive health care services and gender-affirming health services that are permitted under the laws of Connecticut and were provided in accordance with the applicable standard of care. Examples of these laws are found at Conn. Gen. Stat. §§ 38a-835, 52-155a, 52-155b, 52-571m, 52-571n, 54-155b, 54-162, 54-82i(b).

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

For up to date information on shield laws for gender affirming care, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth."](#)

Resources

Connecticut Revised Statutes <https://www.cga.ct.gov/current/pub/titles.htm>

Connecticut Code of Regulations <https://portal.ct.gov/Ethics/Statutes-and-Regulations/Statutes-and-Regulations/Regulations>

DELAWARE

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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
- S** Emergency Care
- S** **F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- S** **F** Pregnancy-Related Care
- S** Reportable, Communicable, Infectious Disease Care
- 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
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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
- Minor Living Apart from Parent/Guardian
- Minor Parent
- Minor in State Custody
- Pregnant Minor

Other

- S** Conversion Therapy,⁴ Ban
- S** Financial Responsibility
- Gender Affirming Care
- S** Minor Parent, Consent for Child's Care
- S** Shield Laws

Key

State law found⁵

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

Del. Code Ann. tit. 1, § 701 provides that the age of majority is 18. However other statutes specify different ages. For example, *Del. Code Ann. tit. 24, § 1782* defines a minor as “a female person” under age 16 years.

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 *In the Matter of S.L., A Minor Child v. A. and Sh. L.*, 735 A. 2d 433 (1999), the court noted that Delaware statutes do not provide a procedure for emancipation of minors. However, for purposes of seeking an abortion, *Del. Code Ann. tit. 23, § 1782* provides that female minors who are or have been married or who have by court order or otherwise been freed from the care, custody and control of their parents are

deemed emancipated. In *Christenson v. Tanner*, 980 A.2d 1059 (2009), the court noted that Delaware follows the common law, wherein the marriage of a minor is sufficient to emancipate the minor from the care, custody, and control of his or her parents. The court also relied on the definition found in the Parental Notification for Abortion Act in *Del. Code Ann. tit. 24, § 1782*.

Minor Marriage

Del. Code Ann. tit. 13, § 123 prohibits individuals under age 18 years from obtaining a marriage license in Delaware. *Del. Code Ann. tit. 13, § 104* provides that if Delaware is the legal residence of a person and that person contracts a marriage outside the state that would be prohibited in the state, then that person shall be punished as if the marriage were entered in Delaware.

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's Status**Emancipated Minor**

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. However, state law authorizes emancipated minors to consent for their own care in specific situations. For example, *Del. Code Ann. tit. 24, §§ 1780 et seq.* provide that the Parental Notice of Abortion Act does not apply to emancipated minors, and emancipated minors may consent for and obtain abortion confidentially. In *Christenson v. Tanner*, 980 A.2d 1059 (2009), the court stated that Delaware follows the common law unless specifically changed by statute. Thus, common law principles regarding emancipated minors and consent may apply.

Married Minor

Del. Code Ann. tit. 13, § 707 provides that a married minor may consent for medical care or hospitalization for themselves that is provided by any licensed medical, surgical, dental, psychological or osteopathic practitioner or any nurse practitioner/clinical nurse specialist or any hospital or public clinic or their agents or employee. This includes mental health and dental treatment among other things.

Minor Consent—Services**Abortion**

Abortion is legal and protected in Delaware. As a general matter, *Del. Code Ann. tit. 24, § 1790* specifically authorizes certain licensed health providers including certified nurse

midwives and nurse practitioners to provide abortions until viability, and after viability when necessary to protect life or health of the pregnant person or in the event of certain fetal anomalies. Physician assistants and advanced practice registered nurses may prescribe abortion medication. *For up to date information on the status of abortion protections and restrictions in Delaware, 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 *Del. Code Ann. tit. 24, § 1780 – 1789b* provide that an abortion may not be performed on an unmarried minor under age 16 unless prior actual notice has been given to one or both parents, a grandparent, a licensed mental health professional, or the legal guardian of the pregnant minor. If the person notified is not a parent or guardian of the minor, that person must provide options counseling to the minor and make an assessment according to specified criteria. The law contains a judicial bypass and exceptions for emergencies. *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.

Emergency Care

Del. Code Ann. tit. 13, § 707 provides that a minor may consent for the examination and treatment of any laceration, fracture or other traumatic injury; or any symptom, disease, or pathology which may, in the judgment of the attending medical personnel, if untreated be reasonably expected to threaten the health or life of the minor. Reasonable efforts must have been made to obtain the consent of the parent or guardian first.

Family Planning/Contraceptives

Del. Code Ann. tit. 13, § 710 provides that a minor age 12 or older who professes to be pregnant, or who professes to be exposed to the chance of becoming pregnant, may give written consent for any diagnostic, preventive, lawful therapeutic procedures, medical care and treatment, except to an abortion, by any licensed physician, hospital, or public clinic.

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

Del. Code Ann. tit. 16, § 5003 provides that a minor between the ages of 14 and 18 years may consent to voluntary

outpatient mental health treatment from a licensed facility or community provider. The consent of the minor’s parent or legal guardian is not required. For a minor of any age under 18 years, the minor may not abrogate consent provided by a parent or legal guardian on the minor’s behalf, and the parent or guardian may not abrogate the consent of a minor age 14 or older. This does not authorize minors to consent to psychotropic medication. *See also Del. Code Ann. tit. 16, § 5025.*

Del. Code Ann. tit. 24, § 1788 provides that any minor who is pregnant and who is considering filing or has an application filed for waiver of the parental notification requirements for abortions (required in *Del. Code Ann. tit. 24, § 1783*) may request counseling and other related support services from the Division of Prevention and Behavioral Health Services in the Dept. of Services for Children, Youth and Their Families. The minor’s consent to receipt of such services is sufficient.

Pregnancy-Related Care

Del. Code Ann. tit. 13, § 710 provides that a minor age 12 or older who professes to be pregnant or exposed to the chance of becoming pregnant may give written consent for any diagnostic, preventive, lawful therapeutic procedures, medical or surgical care and treatment, including X-rays, but not including abortion, by any licensed physician, hospital, or public clinic.

Del. Code Ann. tit. 24, § 1788 provides that any minor who is pregnant and who is considering filing or has an application filed for waiver of the parental notification requirements for abortions (required in *Del. Code Ann. tit. 24, § 1783*) may request counseling and other related support services from the Division of Prevention and Behavioral Health Services in the Dept. of Services for Children, Youth and Their Families. Notification of the minor’s request for such services shall not be provided to any person. Further, the minor’s consent to receipt of such services is sufficient.

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, Infectious, Communicable Disease Care

Del. Code Ann. tit. 13, § 710 provides that a minor age 12 or older who professes to be afflicted with a contagious, infectious, or communicable disease may give written consent for any licensed diagnostic, preventive, lawful therapeutic procedures, medical or surgical care or treatment, by any licensed physician, hospital, or public clinic. Contagious disease for this purpose is defined in chapters 5 and 7 of Title 16. *Del. Code Ann. tit. 16, § 504* provides that the Division of Public Health may declare any disease to be a notifiable disease. *See 16 Del. Admin. Code 4202-Appendix I* for list of reportable diseases.

Sexually Transmitted Infection/Disease/HIV Care

Del. Code Ann. tit. 13, § 710 provides that a minor age

12 years or older who professes to be afflicted with a contagious, infectious, or communicable disease may give written consent for any licensed diagnostic, preventive, lawful therapeutic procedures, medical or surgical care or treatment. This includes “sexually transmitted diseases” designated by the Department of Health and Social Services as reportable through rules and regulations published by the Department of Health and Social Services. See 16 Del. Admin. Code 4202-Appendix I for list of reportable STDs.

Del. Code Ann. tit. 16, § 710 provides that a health facility or health professional may examine and provide treatment for any minor for a sexually transmitted disease; consent is governed by *Del. Code Ann. tit. 13, §§ 707 and 708*.

Del. Code Ann. tit. 16, § 715 provides that a minor age 12 years or older may consent or refuse consent for HIV testing and counseling relevant to the test. The consent or refusal of a minor for HIV testing shall be valid and binding. HIV testing performed in a clinical setting may be provided on an opt-out basis encompassed by general consent for

medical services; HIV testing in a non-clinical setting may only be performed with written informed consent.

Del. Code Ann. tit. 16 § 716 provides that a pregnant person has the right to refuse to consent to both HIV testing as well as any recommended treatment.

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

Del. Code Ann. tit. 16, § 2210 provides that if a minor is age 14 years or older, then the minor may give written consent to a treatment facility for voluntary nonresidential treatment for substance abuse. The consent of the minor is valid and effective regardless of whether such minor’s substance abuse is subsequently medically confirmed. *Del. Code Ann. tit. 16, § 2203* includes definitions of “substance abuse” and “treatment.”

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

Personal/Patient Health Information

Del. Code Ann. tit. 16, § 10307 provides that the Delaware Health Information Network shall issue regulations and rules to ensure that patient specific information is only disclosed with the patient’s consent or in the best interest of those having need to know as outlined in the statute. The

section contains other provisions governing access to and disclosure of a patient’s health information.

Del. Code Ann. tit. 16, §§ 1210-1213 provide for the confidentiality of personal health information, specify when personal health information may be disclosed with and without the informed consent of the individual who is the subject of the information, and authorize the Department

of Health and Social Services to issue implementing regulations.

Del. Code Ann. tit. 18, § 6412 provides, for purposes of the Delaware Managed Care Organization Act, that data or information pertaining to the diagnosis, treatment or health of any enrollee or applicant shall be held in confidence and shall not be disclosed to any person except upon the express consent of the enrollee or applicant, or the enrollee's or applicant's physician, or pursuant to statute or court order in the context of litigation.

Sexually Transmitted Disease and HIV

Del. Code Ann. tit. 16, § 717 provides that no person may disclose or be compelled to disclose the identity of any person upon whom an HIV test is performed, or the results of such test in a manner which permits identification of the subject of the test, except to the subject of the test or their legal guardian, or to a person holding a legally effective release of such test results, or in certain other enumerated circumstances.

Del. Code Ann. tit. 16, § 1206A provides that a person who has knowledge of the identity of any person upon whom an HIV test is performed, or the results of such test, shall maintain the confidentiality of that information pursuant to *Del. Code Ann. tit. 16, § 717*.

Del. Code Ann. tit. 16, § 710 provides that when a minor has consented for their own care, the fact of consultation, examination, and treatment of a minor for any STD shall be strictly confidential and shall not be divulged by the facility or the health-care professional, including sending of a bill for such services to any persons other than the minor, except in limited circumstances.

Substance Use

Del. Code Ann. tit. 16, § 2220 provides that every minor who consents to their own voluntary nonresidential substance use treatment as authorized by *Del. Code Ann. tit. 16, § 2210* shall have the right to inspect all records pertaining to that patient's own self, upon oral or written request.

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

Pregnancy/Contagious, Infectious, Communicable, Reportable Disease

Del. Code Ann. tit. 13, § 710 provides that, when a minor age 12 years or older has consented for care for pregnancy, or for contagious, infectious, communicable or reportable disease, a physician or hospital may in their sole discretion, but having primary regard for the minor, provide or withhold from the parents or guardian information related to diagnosis, therapeutic procedures, care and treatment rendered or to be rendered to the minor.

Del. Code Ann. tit. 13, § 710 provides that a health care provider must give parents or guardians a notice of their intention to perform an operation related to care for which the minor has consented under this statute, for pregnancy or contagious, infectious, communicable, or reportable disease, unless delay would endanger the minor.

Sexually Transmitted Disease

Del. Code Ann. tit. 16, § 710 provides that consultation, examination, and treatment of a minor for sexually transmitted diseases, including the sending of a bill for such services, is strictly confidential, when the minor has consented as authorized by *Del. Code Ann. tit. 13, §§ 707 and 708*, except a parent or guardian may be informed if the care was provided as part of emergency services and the parent or guardian was informed of the emergency as required by *Del. Code Ann. tit. 13, § 707*.

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

Del. Code Ann. tit. 16, § 710 provides that the fact of consultation, examination, and treatment of a minor for any

STD shall be strictly confidential and shall not be divulged by the facility or the health-care professional, including sending of a bill for such services to any persons other than the minor when the minor has consented for the services.

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 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.

Financial Responsibility

Del. Code Ann. tit. 13, § 710 provides that when a minor consents for care related to contagious, infectious, communicable or reportable diseases, or to pregnancy, as authorized by the statute, the parents or guardians of the minor are not liable for payment for the costs of the minor consent care or treatment.

Gender Affirming Care

There are no restrictions on access to gender affirming care in Delaware at this time.

For up to date information on the status of restrictions on gender affirming care for minors, see [Movement Advancement Project’s “Equality Maps: Bans on Best Practice Medical Care for Transgender Youth.”](#) See also **Appendix G** for further information about gender-affirming care.

Minor Parent, Consent for Child’s Care

Del. Code Ann. tit. 13, § 707 provides that a minor parent may consent for medical treatment or hospitalization

for their child provided by any licensed medical, surgical, dental, psychological, or osteopathic practitioner or any nurse practitioner/clinical nurse specialist or any hospital or public clinic or their agents or employees. “Medical treatment” is defined in the statute.

Shield Laws

Delaware has passed a series of laws to provide protections for health care providers against disciplinary actions, adverse licensing actions, and civil actions both in state and from out of state based solely on the provision, receipt, assistance, support for, or liability derived from reproductive health care services that are permitted under the laws of the state and were provided in accordance with the applicable standard of care. Examples of these laws are found at Del. Code Ann. tit. 10, § 3928; tit. 11, § 2506; tit. 18, § 2535; and tit. 24, §§ 1731, 1773, 1922.

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

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

Resources

Delaware Revised Statutes <https://delcode.delaware.gov/>

Delaware Code of Regulations <https://regulations.delaware.gov/AdminCode/>

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Quick Guide

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- S** Emancipation
- S** Minor Marriage

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- Emergency Care
- S** **F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- S** **F** Pregnancy Related Care
- Reportable, Communicable, Infectious Disease Care
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Other

- S** Anatomical Gift/Donation
- S** Care in Certain Settings, School
- S** Conversion Therapy,⁴ Ban
- S** Emergency Care
- S** Financial Responsibility
- Gender Affirming Care
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Parent, Consent for Child
- S** Obligation to Treat or Refer
- S** Reproductive Freedom
- S** Shield Laws
- S** Vaccination, Minor Consent

Key

State law found⁵

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

D.C. Code Ann. § 46-101 provides that the age of majority is 18 years.

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. For example, *D.C. Mun. Regs. tit. 22-B, § 699* provides that as used in *Chapter 6 of D.C. Mun. Regs. tit. 22*, (“Protection of Minors”), “emancipated minor” means a minor who is or has been married; or who is serving or who has served in the armed forces; or who is employed and contributing more than half of their own support if residing with their parents; or who is residing apart from their parents and managing their own affairs; or who is making the major decisions affecting their own life. For purposes of the Mental Health Consumers’ Rights Protection Act of 2001, *D.C. Code § 7-1231.02* defines “emancipated minor” to

mean a “minor who is living separate and apart from [their] parent(s) or legal guardian, with or without parent or guardian consent, and regardless of the duration of such separate residence, and who is managing his or her own personal and financial affairs, regardless of the source or extent of the minor’s income.”

Minor Marriage

D.C. Code Ann. § 46-403 provides that marriage is illegal when either party to the marriage is under age 16 years.

D.C. Code Ann. § 46-411 provides that marriage with a minor age 16 or 17 years requires parent consent.

D.C. Code Ann. § 46-405.01 provides that the District does not recognize a marriage legally entered into in another jurisdiction if that marriage is expressly prohibited by D.C. law. *D.C. Code Ann. § 46-405* provides that if a person from the District marries in another jurisdiction and that marriage would have been illegal in the District, then the marriage is deemed illegal and may be decreed to be void.

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’s Status

No statute or case law was found that expressly authorizes minors to consent to health care based on their status. See “Other” section for related laws.

Minor Consent—Services**Abortion**

Abortion is legal and protected in the District of Columbia. *D.C. Code § 7-2086.01* provides that “(a) The District shall recognize the right of every individual to choose or refuse contraception or sterilization. (b) The District shall recognize the right of every individual who becomes pregnant to decide whether to carry a pregnancy to term,

to give birth, or to have an abortion. (c) The District shall not: (1) Deny, interfere with, or restrict, in the regulation or provision of benefits, facilities, services, or information, the right of an individual, including an individual under District control or supervision, to: (A) Choose or refuse contraception or sterilization; or (B) Choose or refuse to carry a pregnancy to term, to give birth, or to have an abortion . . .” For up to date information on the status of abortion protections and restrictions in the District, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

Minors may consent for abortion. *D.C. Mun. Regs. tit. 22-B, § 600.7* provides that minors of any age may consent for the health services that they request for the lawful termination of a pregnancy.

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

D.C. Mun. Regs. tit. 22-B, § 60.7 provides that a minor of any age may consent for the health services that they request for the prevention of a pregnancy.

D.C. Mun. Regs. tit. 22-B, § 600.8 provides that a minor may not consent for sterilization, such as tubal ligation or vasectomy.

D.C. Mun. Regs. tit. 22-B, § 603.1 provides that birth control information, services, and devices shall be provided by the health facilities operated by the District of Columbia without regard to the age or marital status of the patient or the consent of the patient's parent or guardian.

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

D.C. Mun. Regs. tit. 22-B, § 600.7 provides that a minor of any age may consent for the health services that they request for the prevention, diagnosis, or treatment of a mental or emotional condition.

D.C. Code § 7-1231.14 provides that a provider may deliver outpatient mental health services and mental health supports other than medication to a minor who is voluntarily seeking such services without parent or guardian consent if the provider determines that: (A) the minor is knowingly and voluntarily seeking the services; and (B) provision of the services is clinically indicated for the minor's well-being. Treatment without the consent of a parent or guardian may only last 90 days, at which point the provider shall either: (A) make a new determination that provision of services to the minor without parental or guardian consent is voluntarily sought by the minor and continues to be clinically indicated; (B) Terminate the services; or (C) With the consent of the minor, notify the parent(s) or guardian to obtain consent to provide further outpatient services. The provider must fully document the reasons for their determinations regarding delivery of mental health services in the minor's clinical record.

D.C. Code § 7-1231.02 defines "provider" for this purpose to mean "an individual or entity that: (A) Is duly licensed or certified to provide mental health services or mental health supports in the District of Columbia; or (B) Has entered into an agreement with the Department to provide mental health services or mental health supports." D.C. Code § 7-1231.02

also defines "mental health services" and "mental health supports," and "provider" for this purpose.

Pregnancy-Related Care

D.C. Mun. Regs. tit. 22, § 600.7 provides that a minor of any age may consent for the health services that they request for the prevention, diagnosis, treatment, or lawful termination of a pregnancy.

D.C. Mun. Regs. tit. 22-B, § 603.2 provides that prenatal and postnatal care, and necessary medical care for the babies shall be provided by the health facilities operated by the District of Columbia and may be provided by any qualified person or institution without regard to the age or marital status of the patient or the consent of the patient's parent or guardian.

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

D.C. Code § 7-2123 provides that all hospitals that provide emergency care to victims of sexual assault shall inform the victim of the option to be provided with, and if the victim requests it, shall immediately provide, "prophylactic antibiotics for the treatment of sexually transmitted diseases and emergency contraception for the prevention of pregnancy." The statute does not differentiate victims with regard to age, except as to the option to notify the sexual assault victim advocate dispatch system if a victim who is age 13 years or older consents to such notification.

Sexually Transmitted Infection/Disease/HIV Care

D.C. Mun. Regs. tit. 22-B, § 600.7 provides that a minor of any age may consent for health services for the prevention, diagnosis, or treatment of sexually transmitted 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

D.C. Mun. Regs. tit. 22-B, § 600.7 provides that a minor of any age may consent for health services for the prevention, diagnosis, or treatment of substance abuse, including drug and alcohol abuse.

However, D.C. Mun. Regs. tit. 22-A, § 6346.3 provides that a minor may not be admitted to an opioid treatment program (OTP) unless a parent or legal guardian consents in writing to such treatment.

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

Medical Record Access

D.C. Mun. Regs. tit. 17, § 4612 provides standards of conduct for licensed physicians, which include that physicians must provide a patient or the patient’s representative with a copy of the patient’s medical record, upon their request, except a “licensed physician shall not make available to a parent, guardian, or representative of a minor child a record of a minor child the disclosure of which without the child’s consent is prohibited by law.”

Minor Consent

D.C. Mun. Regs. tit. 22-B, § 602.8 provides that, unless otherwise stated by specific legal requirements, no information about sexually transmitted disease, “drug substance abuse”, pregnancy, and emotional illness shall be given by a health professional (who has treated a minor based on the minor’s own consent) to another professional, school, law enforcement, court authority, government agent, spouse, future spouse, employer, or any other person without the consent of the minor, unless giving the information is necessary to the health of the minor and the public, and only when the minor’s identity is kept confidential.

Use and Disclosure of Health Information

D.C. Code § 7-242 provides that “[a]n agency or service provider shall use or disclose individually identifiable health information in accordance with HIPAA.”

D.C. Code § 7-3006 provides that information furnished

to the Addiction Prevention and Recovery Administration shall remain confidential and may be disclosed only to medical personnel for purposes of diagnosis and treatment; except, that with the prior written consent of the client, the information may be disclosed for the purposes of and in accordance with §§ 7-241 et seq.

D.C. Code §§ 7-1201.01 – 7-1208.07 contains provisions that specify the privacy, access to, and disclosure of mental health information.

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

General Minor Consent

D.C. Mun. Regs. tit. 17, § 4612 provides standards of conduct for licensed physicians, which include that physicians must provide a patient or the patient's representative with a copy of the patient's medical record, upon their request, except a "licensed physician shall not make available to a parent, guardian, or representative of a minor child a record of a minor child the disclosure of which without the child's consent is prohibited by law."

D.C. Mun. Regs. tit. 22-B, § 602.6 provides that, except as described in *D.C. Mun. Regs. tit. 22, § 602.7*, no information about minor consent treatment given or needed related to prevention, diagnosis or treatment of sexually transmitted disease, substance abuse, pregnancy, abortion, or mental or emotional conditions shall be given to the minor's parents or legal guardian without the consent of the minor unless, because of the minor's age or condition, the attending health professional can "reasonably presume consent."

D.C. Mun. Regs. tit. 22-B, § 602.8 provides that, unless otherwise stated by specific legal requirements, no information in regard to sexually transmitted disease, "drug substance abuse," pregnancy, and emotional illness shall be given by a health professional who has treated a minor based on the minor's own consent to another professional, school, law enforcement, court authority, government agent, spouse, future spouse, employer, or any other person without the consent of the minor, unless giving the information is necessary to the health of the minor and the public, and only when the minor's identity is kept confidential.

Mental Health

D.C. Mun. Regs. tit. 22-B, § 602.5 provides that, except as provided in the *D.C. Mental Health Information Act of 1978*, a health professional may, but is not obligated to, inform the parents or legal guardian of a minor of any treatment given or needed when, in the judgment of the health professional: (a) severe complications are present or anticipated; (b) major surgery or prolonged hospitalization is needed; (c) failure to inform the parents or legal guardian would seriously jeopardize the safety and health of the minor patient; and (d) to inform them would benefit the minor's physical and mental health and family harmony.

Sexually Transmitted Disease

D.C. Mun. Regs. tit. 22-B, § 602(7) provides that information about any treatment needed by a minor who is infected with a sexually transmitted disease and who has refused treatment shall be given to the minor's parents or legal guardian.

Substance Use

D.C. Mun. Regs. tit. 22-B, § 602.10 provides that when a minor is found not to be suffering from a drug or substance abuse, including alcohol and nicotine, no information with respect to any appointment, examination, test, or other health procedure shall be given to the minor's parents or legal guardian without the consent of the minor, if they have not already been informed as permitted by *D.C. Mun. Regs. tit. 22-B, §§ 602.5, 602.6, and 602.8*.

HIPAA rules relevant to disclosure to parents/guardians

See **Appendix H** for information about minors' access to and control of their medical information under HIPAA when they have consented to their own care, the HIPAA rule when state law is silent as to parent access, and the HIPAA rule authorizing providers to limit access to records in certain circumstances.

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

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

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

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

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

Insurance Claims/ Billing

See **Appendix L** for information about confidentiality protection in the billing and insurance claims process under the HIPAA Privacy Rule.

Other

This section summarizes a range of laws that may not explicitly address minor consent or disclosure of information but that health care providers often have questions about when minors seek care, especially when they seek care on their own.

Anatomical Gift/Donation

D.C. Code § 7-1531.03 provides that an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in § 7-1531.04 by a minor who is emancipated, or a minor authorized under state law to apply for a driver's license because the donor is at least 16 years of age. Unemancipated minors require parental consent.

Care in Certain Settings, School Based Health

D.C. Mun. Regs. tit. 5-B, § 2413.3(e) provides that the provision of services at school based health centers (SHCs) in D.C. Public Schools must be provided pursuant to the minor consent requirements of *D.C. Mun. Regs. tit. 22-B, §§ 600, 603*, and *D.C. Code § 7-1231.14* for mental health treatment. For information on SHCs in the D.C. public schools, see <https://dchealth.dc.gov/service/school-based-health-centers>.

"Conversion Therapy," Ban

For up to date information on the status of statutes or case law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors, in all 50 states and DC, see [Movement Advancement Project's "Equality Maps: Conversion "Therapy" Laws."](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

D.C. Mun. Regs. tit. 22-B, § 600.4 provides that health services may be provided to a minor of any age without parental consent when, in the judgment of the treating physician, surgeon, or dentist, the delay to obtain parental consent would substantially increase the risk to the minor's life, health, mental health, or welfare, or would unduly prolong suffering.

Financial Responsibility

D.C. Mun. Regs. tit. 22-B, § 601 provides that a minor who consents for health services for themselves or their child is responsible for payment for the services. The spouse, parents, or legal guardian of the minor are not responsible for payment unless they have expressly agreed to pay for care. Minors who are proven unable to pay and who receive the health services in public institutions, or who qualify for Medicaid or other subsidized forms of relief, are not responsible for payment.

D.C. Mun. Regs. tit. 22-B, § 603.3 provides that prenatal and postnatal care, and necessary medical care for the babies,

as well as birth control information, services, and devices shall be provided by the District of Columbia at no cost to the patient unless voluntary payments or contributions are made.

Gender Affirming Care

There are no restrictions on access to gender affirming care in the District of Columbia at this time.

For up to date information on the status of restrictions on gender affirming care for minors, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth."](#) See also [Appendix G](#) for further information about gender-affirming care.

Good Faith Reliance/Immunity from Liability

D.C. Mun. Regs. tit. 22-B, § 602.3 provides that a physician, surgeon, dentist, or health or mental health care facility shall not be held liable for providing treatment to a minor without the consent of a parent if the provider has relied in good faith on misrepresentations by the minor.

D.C. Mun. Regs. tit. 22, § 602.9 provides that notification or disclosure to the spouse, parent, parents, or legal guardian of a minor by a health professional does not constitute libel or slander, a violation of the right of privacy, a violation of the rule of privileged communication, or any other legal basis of liability.

Minor Parent/Consent for Child

D.C. Mun. Regs. tit. 22-B, § 600.3 provides that a minor parent may consent for the provision of health services to their child.

Obligation to Treat or Refer

D.C. Mun. Regs. tit. 22-B, § 602.1 provides that a physician, surgeon, dentist, or health or mental care facility may not be compelled against their or its best judgment to treat a minor based on the minor's own consent.

D.C. Mun. Regs. tit. 22-B, § 602.2 provides that a physician, surgeon, dentist, or health or mental care facility that refuses to treat a minor based on the minor's own consent shall refer the minor to another facility.

Reproductive Freedom

D.C. Code § 7-2086.01 provides that "(a) The District shall recognize the right of every individual to choose or refuse contraception or sterilization. (b) The District shall recognize the right of every individual who becomes

pregnant to decide whether to carry a pregnancy to term, to give birth, or to have an abortion. (c) The District shall not: (1) Deny, interfere with, or restrict, in the regulation or provision of benefits, facilities, services, or information, the right of an individual, including an individual under District control or supervision, to: (A) Choose or refuse contraception or sterilization; or (B) Choose or refuse to carry a pregnancy to term, to give birth, or to have an abortion ...”

Shield Laws

The District of Columbia has passed a series of laws, including the Enhancing Reproductive Health Protections Amendment Act of 2022 ([D.C. Law 24-254](#)) and the Human Rights Sanctuary Amendment Act of 2022 ([D.C. Law 24-257](#)), to provide protections for health care providers against disciplinary actions, adverse licensing actions, and civil actions both in state and from out of state based solely on the provision, receipt, assistance, support for, or liability derived from reproductive health care services and gender-affirming health services that are permitted under the laws of the District and were provided in accordance with the applicable standard of care as well as to protect patients and their families from accessing such care. Examples of these laws are found at *D.C. Code* §§ 2-1401.02, 2-1402.92, 2-1461.01, 2-1461.02, 7-2086.01 and 13-443.

Vaccination, Minor Consent

D.C. Code § 7-1653.01 provides that certain categories of minors (emancipated minor, a minor who is married or previously has been married, an unaccompanied homeless minor, a minor who is or has been pregnant, or a minor who is separated from their parent or legal guardian for whatever reason and is not supported by their parent or guardian) may consent to receive a vaccine recommended by the U.S. Advisory Committee on Immunization Practices (ACIP) and where receipt of the vaccine accords with ACIP’s recommended immunization schedule.

The statute also provides that a vaccine provider may accept the consent of a minor not otherwise listed above to receive a vaccine recommended by ACIP in accordance with ACIP’s recommended immunization schedule; provided, that the vaccine provider reasonably attempts to obtain consent from the minor’s parent or legal guardian either in person, in writing, or by telephone, and there is no objection from the parent or legal guardian. Consent of the parent or legal guardian may be assumed if the vaccine provider cannot notify the parent or legal guardian after at least a reasonable attempt to notify.

The statute further provides that a minor may seek a court order to authorize receipt of a vaccine due to the parent or legal guardian’s objection.

Resources

District of Columbia Statutes <https://code.dccouncil.gov/us/dc/council/code>

District of Columbia Municipal Regulations <https://www.dcregs.dc.gov/>

FLORIDA

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- S Minor Marriage

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Minor Consent to Health Care—Minor's Status

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- S Constitution
- S "Conversion Therapy," Prohibition on Ban⁴
- S Financial Responsibility
- S Gender Affirming Care, Restriction
- S Minor Parent, Consent for Child's Care
- S Parent 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

Fla. Stat. § 743.07 provides that the age of majority is 18 years.

Emancipation

Fla. Stat. § 743.015 provides that a court may grant emancipation or “remove the disabilities of nonage” of a minor age 16 years or older residing in Florida based on specified criteria and a petition filed by the minor’s parent or guardian. Removal of the disabilities of nonage has the effect of giving the minor the status of an adult for purposes of all laws of the state and authorizes the minor to exercise all of the rights and responsibilities of persons who are age 18 years or older.

Minor Marriage

Fla. Stat. § 741.04 provides that a minor may obtain a license to marry if they are at least 17 years of age, has the written consent of their parents, and the older party is not more than two years older. There are several procedural steps that must be taken to obtain the license.

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’s Status**Emancipated Minor**

Fla. Stat. § 743.015 provides that a court order granting emancipation or removing “the disabilities of nonage” of a minor age 16 years or older has the effect of giving the minor the status of an adult for purposes of all laws of the state and authorizes the minor to exercise all of the rights and responsibilities of persons who are age 18 years or older.

Married Minor

Fla. Stat. § 743.01 provides that minors who are or have been married are considered emancipated and may perform all acts that they could do if not a minor.

Minor in State Custody

Fla. Stat. § 743.066 provides that the “disability of nonage” of a minor adjudicated as an adult and in the custody or

under the supervision of the Department of Corrections is removed, as such disability relates to health care services, except in regard to medical services relating to abortion and sterilization.

Minor Consent—Services**Abortion**

Abortion is banned in Florida with limited exceptions. A six-week ban is currently being enforced as a result of a decision by the Florida Supreme Court in *Planned Parenthood of S.W. and Central Fla. et al. v. Florida, No. SC2022-1050 at 46-47 (Fla. Apr. 1, 2024)*, and multiple additional restrictions are in place. For up to date information on the status of abortion restrictions in Florida, 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 the Parental Notice of and Consent for Abortion Act, *Fla. Stat. §§ 390.01114 and 390.01116*, provides that an abortion may not be performed on an unemancipated unmarried or divorced minor who is not a parent before notice has been given to one parent or legal guardian of the pregnant minor and the parent or guardian has consented in writing. The law includes a judicial bypass and a medical emergency exception to both the consent and notice requirements; additionally, there is a provision allowing constructive notice to the parent if actual notice is not possible after a reasonable effort has been made. Prior statutory provision *Fla. Stat. § 390.1115* was declared unconstitutional in *North Florida Women's Health and Counseling Services, Inc. v. State*, 866 So. 2d 612. The Florida Constitution expressly authorizes parental notification for minors. *Fl. Const. art. X, § 22*. 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

Fla. Stat. § 381.0051 provides that maternal health and contraceptive information and services of a nonsurgical nature may be given to minors by licensed medical practitioners and the Department of Health, provided the minor: is married; or is a parent; or is pregnant; or has the consent of a parent or legal guardian; or in the opinion of the physician, may suffer probable health hazards if the services are not provided. Application of non-permanent internal contraceptive devices is not considered a surgical procedure.

Fla. Stat. § 381.0051 provides that except as explicitly described in statute, no medical agency or institution of the state or unit of local government shall interfere with the right of any patient or physician to use medically acceptable contraceptive procedures, supplies, or information or restrict the physician-patient relationship.

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

Fla. Stat. § 394.4784 provides that when a minor age 13 years or older experiences an emotional crisis to such degree that they perceive the need for professional assistance, they shall have the right to request, consent to, and receive: outpatient diagnostic and evaluative mental health services by a licensed mental health professional to

determine the severity of the problem and the potential for harm to the minor or others absent professional services; and outpatient crisis intervention, psychotherapy, group therapy, counseling, or other forms of verbal therapy provided by a licensed mental health professional. These services shall not include medication, somatic methods, aversive stimuli, or substantial deprivation and shall not exceed two visits in any one-week period without parental consent.

Pregnancy-Related Care

Fla. Stat. § 743.065 provides that an "unwed pregnant minor" may consent for medical or surgical care or services related to the pregnancy by a hospital, clinic, or licensed physician.

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

Sexually Transmitted Infection/Disease/HIV Care

Fla. Stat. § 384.30 provides that a minor may be examined and treated for sexually transmitted diseases without the consent of a parent or guardian by licensed physicians and health care professionals, the Department of Health, a public or private hospital, a clinic, or other health facility. *Fla. Admin. Code Ann. r. 64D-3.028* designates sexually transmitted diseases for this purpose, and includes HIV/AIDS as a sexually transmissible disease.

Fla. Admin. Code Ann. r. 64D-2.004 provides that certain minors may be tested for HIV with their own informed consent and without consent from a parent or guardian: any minor who requests an HIV exam, test, consultation, or treatment; any minor who is age 17 years and who donated his or her blood under *Fla. Stat. § 743.06*; and any married minor or unmarried pregnant minor.

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

Fla. Stat. § 397.601 provides that a minor may consent to obtain voluntary substance abuse impairment services from a licensed service provider.

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

Access, Use, and Disclosure of Health Information

Fla. Stat. § 456.057 provides for the protection and disclosure of individual’s health records. Among other things, it provides that “any health care practitioner licensed by the department [of health] or a board within the department [of health] who makes a physical or mental examination of, or administers treatment or dispenses legend drugs to, any person shall, upon request of such person or the person’s legal representative, furnish, in a timely manner, without delays for legal review, copies of all reports and records relating to such examination or treatment, including X rays and insurance information. However, when a patient’s psychiatric, chapter 490 psychological, or chapter 491 psychotherapeutic records are requested by the patient or the patient’s legal representative, the health care practitioner may provide a report of examination and treatment in lieu of copies of records. Upon a patient’s written request, complete copies of the patient’s psychiatric records shall be provided directly to a subsequent treating psychiatrist. The furnishing of such report or copies shall not be conditioned upon payment of a fee for services rendered.”

Fla. Stat. § 456.001 provides that “health care practitioner” means “any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV

of chapter 468; chapter 478; chapter 480; part I, part II, or part III of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491.”

Fla. Stat. Ann. § 395.3025 provides that the patient records of hospitals and other licensed facilities are confidential and must not be disclosed without the consent of the patient or their legal representatives except in the circumstances specified in the statute.

HIV

Fla. Stat. § 381.004 provides for the confidentiality of HIV test results and specifies when the results may be disclosed and the limitations on disclosure.

Mental Health

Under the Florida Mental Health Act/Baker Act, *Fla. Stat. § 394.4615* provides that “clinical records” shall be maintained for each patient, that these are confidential and shall be released when authorized by the patient or the patient’s authorized representative or in other specified circumstances. Patients must have reasonable access to their clinical records, unless such access is determined by the patient’s physician or the patient’s psychiatric nurse to be harmful to the patient. *Fla. Stat. § 394.4615* defines “clinical record” to include all information recorded by facility staff which pertains to the patient’s hospitalization or treatment.

Sexually Transmitted Disease

Fla. Stat. § 384.29 provides that, except as otherwise specified in the statute, “information and records held by the [Department of Health] or its authorized representatives relating to known or suspected cases of sexually transmissible diseases are strictly confidential and exempt from the provisions of § 119.07(1). Such information shall not be released or made public by the department or its authorized representatives, or by a court or parties to a lawsuit upon revelation by subpoena, except . . . with the consent of all persons to which the information applies[.]”

Substance Use

Fla. Stat. § 397.501 provides that the records of service providers which pertain to the identity, diagnosis, and prognosis of and service provision for substance abuse treatment to any individual are confidential. When a minor alone consents to substance use services, any written consent for disclosure may be given only by the minor, including, but not limited to, any disclosure of identifying information to the parent, legal guardian, or custodian of a minor for the purpose of obtaining financial reimbursement; when the consent of a parent, legal guardian, or custodian is required for a minor to obtain substance abuse treatment, any written consent.

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

Fla. Stat. § 394.4784 provides that outpatient mental health services may include parental participation when the mental health professional deems it appropriate. *Fla. Admin. Code Ann. r. 64B19-19.006* requires a psychologist to maintain his or her duty of confidentiality to a minor client, but the rule does not prohibit the psychologist from disclosing his or her evaluation, assessment, analysis,

diagnosis, or recommendations regarding the minor to the minor’s guardian.

Sexually Transmitted Disease

Fla. Stat. § 384.30 provides that the fact of consultation, examination, and treatment of a minor for sexually transmitted diseases is confidential and shall not be divulged (except pursuant to the public health confidentiality provisions of *Fla. Stat. § 384.29*) in any direct or indirect manner, such as sending a bill for services to a parent or guardian.

Substance Use

Fla. Stat. § 397.501 provides that when a minor alone consents to substance use services any disclosure of identifying information to the parent, legal guardian, or custodian of a minor for the purpose of obtaining financial reimbursement requires the written consent of 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

Fla. Stat. § 397.501 provides that when a minor alone consents for voluntary substance abuse treatment written consent for disclosure of information pertaining to the treatment must be given by the minor, including information that is disclosed to a parent, legal guardian, or custodian of a minor for the purpose of obtaining financial reimbursement.

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

Fl. Const. art I, § 23 provides: “Every natural person has the right to be let alone and free from governmental intrusion into the person’s private life except as otherwise provided herein. This section shall not be construed to limit the public’s right of access to public records and meetings as provided by law.” This provision was previously interpreted to protect the right to abortion. However, in *Planned Parenthood of S.W. and Central Fla. et al. v. Florida*, No. SC2022-1050 at 46-47 (Fla. Apr. 1, 2024), the Florida Supreme Court held that the Florida Constitution’s privacy clause does not provide clear protection for abortion.

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

Emergency Care

Fla. Stat. § 743.064 provides that a physician or osteopath may give emergency medical care or treatment without parental consent to any minor who has been injured in an accident or who is suffering from an acute illness, disease, or condition, if a delay in treatment would endanger the health or physical well-being of the minor. Emergency care or treatment may also be provided by paramedics, emergency medical technicians, and other emergency medical services personnel. Emergency care may only be provided without parental consent if: the minor’s condition renders them unable to reveal the identity of his or her parents, guardian, or legal custodian, and their identity is unknown to anyone who accompanied the minor to the hospital; or the parents or legal guardian cannot be immediately located by telephone at home or work.

Financial Responsibility

Fla. Stat. § 384.30 provides that the fact of consultation, examination, and treatment of a minor for sexually transmitted diseases is confidential and shall not be divulged (except pursuant to the public health confidentiality provisions of *Fla. Stat. § 384.29*) in any direct or indirect manner, such as sending a bill for services to a parent or guardian.

Fla. Stat. § 397.431 provides that a parent, legal guardian, or legal custodian of a minor is not liable for payment for any substance abuse services provided to the minor without parental consent pursuant to *§ 397.601(4)* unless ordered

to participate in the services. If the minor is receiving services as a juvenile offender, the obligation to pay is governed by the law relating to juvenile offenders.

Fla. Stat. § 394.4784 provides that a parent or legal guardian of a minor is not liable for payment for minor consent outpatient mental health diagnostic and evaluation services or outpatient therapy and counseling services, unless such parent, parents, or legal guardian participates in the outpatient diagnostic and evaluation services or outpatient therapy and counseling services and then only for the services rendered with such participation.

Gender Affirming Care, Restriction

Fla. Stat. § 456.52 prohibits sex-reassignment prescriptions and procedures for patients younger than age 18 years with some exceptions. In *Doe v. Ladapo*, 676 F. Supp. 3d 1205 (N.D. Fla. 2023), the court preliminarily enjoined enforcement of this law finding the plaintiffs were likely to prevail on their claim that the statute is unconstitutional. On June 11, 2024, the district court in 2024 WL 2947123 found on the merits of the case that *§ 456.52* and its implementing administrative rules are unconstitutional and not enforceable to the extent they prohibit gender-affirming care for minors even when medically appropriate. The defendants have appealed to the U.S. Court of Appeals for the 11th Circuit.

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](#).

Parent Consent

Fla. Stat. Ann. § 1014.06 provides that except as otherwise provided by law, a “health care practitioner” or an individual employed by such health care practitioner may not provide or solicit or arrange to provide health care services or prescribe medicinal drugs to a minor child, or a “provider” may not allow a medical procedure to be performed on a minor child in its facility, without first obtaining written parental consent. This section does not apply to an abortion, which is governed by separate law. “Health care practitioner” for this purpose is defined by *Fla. Stat. Ann. § 456.001*. “Provider” is defined by *Fla. Stat. Ann. § 1014.06*.

Florida Statutes <https://www.flsenate.gov/laws/statutes>

Florida Administrative Code <https://www.flrules.org/>

GEORGIA

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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
- Sexual Assault Care
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Confidentiality and Disclosure

- S** **F** Confidentiality/Access to Records
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Minor Consent to Health Care—Minor's Status

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

Other

- S** Care in Certain Settings, Limits
- S** "Conversion Therapy," Prohibition on Ban⁴
- S** Emergency Care
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Parent, Consent for Child's Care

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

Ga. Code Ann. § 39-1-1 provides that the age of majority is 18 years.

Emancipation

Ga. Code Ann. § 15-11-720 provides that a minor is emancipated if they are on active duty with the U.S. armed forces or are married. Minors also may petition the court for emancipation. The criteria for court ordered emancipation and the process are described in *Ga. Code Ann. §§ 15-11-721 – 15-11-728*. A minor emancipated by operation of law or by court order shall be considered to have the rights and responsibilities of an adult, except for those specific constitutional and statutory age requirements regarding

voting, use of alcoholic beverages, and other health and safety regulations relevant to a child because of their age.

Minor Marriage

Ga. Code Ann. § 19-3-2 provides that a person must be age 18 years or older to marry, except that emancipated minors who are 17 or older may marry if certain criteria are met, including that the older party may be no more than four years older than the younger party.

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's Status**Emancipated Minor**

Ga. Code Ann. § 15-11-727 provides that an emancipated minor has the right to authorize their own preventive health care, medical care, dental care, and mental health care, without parental knowledge or liability. The section also gives emancipated minors the right to apply for medical assistance programs and for other welfare assistance if needed.

Married Minor

Ga. Code Ann. § 15-11-720 provides that a minor is emancipated if they are married. *Ga. Code Ann. § 15-11-727* provides that an emancipated minor has the right to authorize their own preventive health care, medical care,

dental care, and mental health care, without parental knowledge or liability. *Ga. Code Ann. § 31-20-2* provides that a sterilization procedure may be performed upon a person under age 18 years who is legally married, if the person makes a request in writing and if, before or at the time of the request, a full and reasonable medical explanation is given by such physician to the person as to the meaning and consequence of the operation.

Minor in Armed Forces

Ga. Code Ann. § 15-11-720 provides that a minor is emancipated if they are on active duty with the U.S. armed forces. *Ga. Code Ann. § 15-11-727* provides that an emancipated minor has the right to authorize their own preventive health care, medical care, dental care, and mental health care, without parental knowledge or liability.

Minor Consent—Services

Abortion

Abortion is banned in Georgia after 6 weeks with limited exceptions. The 6-week ban is currently being enforced while litigation is ongoing. Numerous other restrictions on abortion remain in place. *For up to date information on the status of abortion restrictions Georgia, 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 *Ga. Code Ann. §§ 15-11-680 -- 15-11-688* provide that an abortion may not be performed on an unemancipated minor under age 18 without obtaining the minor's written consent and without notifying the minor's parent or guardian, with the statutes specifying criteria for how such notification must be given. The law includes a judicial bypass and a medical emergency exception. *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

Ga. Code Ann. § 31-9-2 provides that any female, regardless of age or marital status, may consent for any surgical or medical treatment or procedures in connection with the prevention of pregnancy; however, *Ga. Code Ann. § 31-9-5* provides that this section does not apply to abortion and sterilization procedures which are governed by separate statutes.

Ga. Code Ann. § 49-7-3 provides that the Department of Human Services, county boards of health, health districts, county departments of family and children services, and district departments of family and children services are authorized to offer free family planning services to any person who is married, is a parent, is pregnant; or is requesting such services.

Ga. Code Ann. § 49-7-5 provides that the employees of the agencies engaged in the administration of family planning services shall recognize that the right to make decisions concerning family planning and birth control is a fundamental personal right of the individual; and nothing in this chapter shall in any way abridge such individual right, nor shall any individual be required to state his reason for refusing the offer of family-planning services.

Ga. Code Ann. § 49-7-2 defines relevant terms. "Family planning" for this purpose means counseling and interviews

with trained personnel regarding birth control, infertility, and family-planning methods and procedures; distribution of literature relating to birth control, infertility, and family planning; referral to licensed physicians or local health departments for consultation, examination, tests, medical treatment, and prescriptions for the purposes of birth control, infertility, and family planning; and, to the extent prescribed, the distribution of rhythm charts, drugs, medical preparations, contraceptive devices, and similar products used for birth control and family planning.

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

Ga. Code Ann. § 31-9-2 provides that any female, regardless of age or marital status, may consent for any surgical or medical treatment or procedures in connection with pregnancy, or the prevention thereof, or childbirth; however *Ga. Code Ann. § 31-9-5* provides that this section does not apply to abortion and sterilization procedures which are governed by separate statutes. If the pregnant minor is married, then the minor is emancipated, and *Ga. Code Ann. § 15-11-727* provides that an emancipated minor has the right to authorize their own preventive health care, medical care, dental care, and mental health care, without parental knowledge or liability.

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

Sexually Transmitted Infection/Disease/HIV Care

Ga. Code Ann. § 31-17-7 provides that a minor who is or professes to be afflicted with a sexually transmitted disease or at risk for HIV may consent for the provision of medical or surgical care or services, by a licensed physician, hospital, or public clinic, that involve procedures and therapy related to conditions or illnesses arising out of the sexually transmitted disease or HIV diagnosis which gave rise to the consent.

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

Ga. Code Ann. § 37-7-8 provides that a minor who is or professes to be suffering from "drug abuse" may consent for the provision of medical or surgical care or services by a licensed physician, hospital, or public clinic, that involve procedures and therapy related to conditions or illnesses arising out of the drug abuse which gave rise to the consent. The statute defines "drug" for this purpose.

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

Access to/Release of Patient Information and Records

Ga. Code Ann. § 24-12-1 provides that no licensed physician, hospital, or health care facility shall be required to release any medical information concerning a patient except to the Department of Public Health for certain purposes where authorized or required by law, statute, or lawful regulation; or on written authorization or other waiver by the patient, or by the parents or duly appointed guardian ad litem of a minor, or on appropriate court order or subpoena.

Ga. Code Ann. § 31-33-2 specifies the requirements for a health care provider, as broadly defined in § 31-33-1, to provide access to a patient’s health records upon request and pursuant to a written request and authorization that complies with HIPAA and is signed by a person authorized to have access to the patient’s records. Ga. Code Ann. § 31-33-3 provides that these rights are in addition to any other rights related to a patient’s records and that this section does apply to psychiatric, psychological, and other mental health records; however, Ga. Code Ann. § 31-33-4 contains specific limitations with respect to access to mental health records.

HIV/AIDS Information

Ga. Code Ann. §§ 24-12-21 and 24-12-21 provide for the confidentiality of HIV and AIDS information and specify the circumstances and to whom this confidential information may be released.

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

Ga. Code Ann. § 37-3-166 provides that a “clinical record” related to mental health services may be released to any person or entity designated in writing by the patient or, if

appropriate, the parent or legal guardian of a minor. *Ga. Code Ann. § 37-3-1* defines “clinical record” for this purpose means a written record pertaining to an individual patient and includes all medical records, progress notes, charts, admission and discharge data, and all other information which is recorded by a facility or other entities responsible for a patient’s care and treatment under §§ 37-3-166 – 37-12-14, and which pertains to the patient’s hospitalization and treatment, including outpatient treatment, for mental health or developmental disabilities.

Sexually Transmitted Disease/HIV

Ga. Code Ann. § 31-17-7 provides that upon the advice of a treating physician, a member of the medical staff or a physician may, but is not obligated to, inform the spouse, parent, custodian, or guardian of the minor as to the treatment given or needed under minor consent for a sexually transmitted disease. This information may be given or withheld without the consent of and over the express refusal of the minor.

Ga. Code Ann. § 24-12-21(k) provides that AIDS confidential information about a minor may be disclosed to the minor’s parent or legal guardian. *Ga. Code Ann. § 31-22-9.1* defines “AIDS confidential information” for this purpose.

Substance Use

Ga. Code Ann. § 37-7-8 provides that upon the advice and direction of a treating physician, a member of the medical staff of a hospital or clinic, or a physician, may, but is not obligated to, inform the spouse, parent, custodian, or guardian of the minor as to the treatment given or needed under minor consent for substance use. This information may be given or withheld without the consent of and over the express refusal of the minor.

Ga. Code Ann. § 37-7-166 provides that a clinical record related to substance use services may be released to any person or entity designated in writing by the patient or, if appropriate, the parent or legal guardian of a minor. *Ga. Code Ann. § 37-7-1* defines “clinical record” for this purpose means written record pertaining to an individual patient and shall include all medical records, progress notes, charts, admission and discharge data, and all other information which is recorded by a facility which pertains to the patient’s hospitalization and treatment for substance abuse to which the minor consented under *Ga. Code Ann. § 37-7-8*.

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.

Care in Certain Settings, Limits

Ga. Code Ann. § 20-2-773 provides that no facility operated on public school property or operated by a public school district and no employee of any such facility acting within the scope of such employee's employment shall provide to public school students: distribution of contraceptives, performance of abortions, referrals for abortion, or dispensing of abortifacients.

"Conversion Therapy" Laws, Prohibition on 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

Ga. Code Ann. § 31-9-3 provides that consent for surgical or medical treatment or procedures by a licensed physician will be implied in an emergency when the treatment or procedures are reasonably necessary, a person authorized to consent is not readily available, and any delay in treatment could reasonably be expected to jeopardize life or health or result in disfigurement or impaired faculties; however *Ga. Code Ann. § 31-9-5* provides that this section does not apply to abortion and sterilization procedures which are governed by separate statutes.

Gender Affirming Care, Restriction

Ga. Code Ann. § 43-34-15 and *Ga. Code Ann. § 31-7-3.5* prohibit, with a few exceptions, the provision of certain "irreversible procedures and therapies" for minors for the treatment of gender dysphoria, including sex reassignment surgeries and hormone replacement therapy, with limited exceptions for treatment of certain medical conditions, other than gender dysphoria, and medically verifiable disorders of sex development. Violations may subject physicians and institutions to disciplinary actions and sanctions. In *Koe v. Noggle*, 2023 U.S. Dist. LEXIS 147770 (Aug. 20, 2023), a court preliminarily enjoined enforcement of the prohibition on hormone replacement therapy. The litigation is continuing.

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

Ga. Code Ann. § 31-9-2 provides that no hospital or other health care facility, health care provider, or other person or entity shall be subject to civil or criminal liability or discipline for unprofessional conduct solely for relying in good faith on any direction or decision by any person reasonably believed to be authorized and empowered to consent under *Ga. Code Ann. § 31-9-2* even if death or injury to the patient ensues. Each hospital or other health care facility, health care provider, and any other person or entity who acts in good faith reliance on any such direction or decision shall be protected and released to the same extent as though such person had interacted directly with the patient as a fully competent person.

Minor Parent, Consent for Child's Care

Ga. Code Ann. § 31-9-2 provides that a minor parent may consent for any surgical or medical treatment or procedures not prohibited by law for their child.

Georgia Statutes <https://www.legis.ga.gov/general-statutes>

Georgia Administrative Code <https://rules.sos.ga.gov/>

HAWAII

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- S Emancipation
- S Minor Marriage

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- Emergency Care
- S F Family Planning/Contraceptives
- S Outpatient Mental Health Care
- S F Pregnancy-Related Care
- Reportable, Communicable, Infectious Disease Care
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Confidentiality and Disclosure

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- S Constitution
- S "Conversion Therapy," Ban⁴
- S Emergency Care
- S Financial Responsibility
- Gender Affirming Care
- S Good Faith Reliance/Immunity from Liability
- S Minor Parent, Consent for Child's Care
- S Shield Laws

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

Haw. Rev. Stat. § 577-1 provides that the age of majority is 18.

Emancipation

Haw. Rev. Stat. § 577-25 provides that minors are emancipated: (1) when they marry pursuant to § 572; or (2) have received a declaration of emancipation from the family court. *Haw. Rev. Stat. § 577-25* specifies the procedures and criteria for a minor to seek and obtain a declaration of emancipation. *Haw. Rev. Stat. § 577-25(c)* specifies the rights of an emancipated minor.

Minor Marriage

Haw. Rev. Stat. §§ 572-1 and 572-2 provide that minors age 16 or older are allowed to marry with consent of their parents, a guardian, or a person in whose custody the minor may be; minors age 15 are allowed to marry with parent/guardian/custodian consent and approval of the family court.

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's Status**Emancipated Minor**

Haw. Rev. Stat. § 577-25(c) specifies the rights of an emancipated minor. *Haw. Rev. Stat. § 577-25(c)(8)* specifies that an emancipated minor may authorize the minor's own preventive health care, medical care, dental care, mental health care, and substance abuse treatment without knowledge or liability of the minor's parents or guardian. *Haw. Rev. Stat. § 577-25(c)(12)* specifies that an emancipated minor may apply for medical or other public assistance.

Married Minor

No provision explicitly authorizes married minors to consent for health care. However, *Haw. Rev. Stat. § 577-25* provides that a minor who has been married pursuant to *Chapter 572* is emancipated and further specifies that an emancipated minor may authorize the minor's own preventive health care, medical care, dental care, mental health care, and substance abuse treatment without knowledge or liability of the minor's parents or

guardian. *Haw. Rev. Stat. § 577-25(c)(12)* specifies that an emancipated minor may apply for medical or other public assistance.

Minor Living Apart from Parent/Guardian

Haw. Rev. Stat. § 577D-2 provide that a "minor without support" may consent for primary medical care and services from a licensed health care practitioner if the practitioner reasonably believes that the minor understands the significant benefits and risks of such care, can communicate informed consent, and the medical care and services are for the minor's benefit. The statute expressly states that no consent from any other person, including a spouse, parent, custodian, or guardian, is necessary to authorize the health care.

Haw. Rev. Stat. § 577D-1 defines a "minor without support" as a minor who is at least age 14 years, and who is not under the care, supervision, or control of a parent, custodian, or legal guardian.

Haw. Rev. Stat. § 577D-1 defines "primary medical care and services" as health services that include screening,

counseling, immunizations, medication, and treatment of illnesses and medical conditions customarily provided by licensed health care practitioners in an outpatient setting, not including invasive surgery beyond standard injections, laceration care, or treatment of simple abscesses.

Pregnant Minor

Haw. Rev. Stat. § 577A-2 provides that a female minor who is or professes to be pregnant may consent for “medical care and services” by public and private hospitals or clinics or by a licensed physician or advanced practice registered nurse on the same basis as an adult. The consent of no other person is necessary.

Haw. Rev. Stat. § 577A-1 defines a “minor” as any person age 14 through 17 inclusive and defines “medical care and services” as the “diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services.” Effective January 1, 2025, the section is amended to replace “venereal diseases” with “sexually transmitted infections.”

Minor Consent—Services

Abortion

Abortion is legal and protected in Hawaii. *Haw. Rev. Stat. § 453-16* provides that “the State shall not deny or interfere with a pregnant person’s right to choose to: (1) Obtain an abortion; or (2) Terminate a pregnancy if the termination is necessary to protect the life or health of the pregnant person” and defines abortion as “an intentional termination of a nonviable fetus.” The statute authorizes performance of abortion by specific providers, and defines “abortion” to mean “an intentional termination of the pregnancy of a nonviable fetus” and “nonviable fetus” as “a fetus that does not have a reasonable likelihood of sustained survival outside of the uterus.” See also *Haw. Rev. Stat. § 457-8.7*.

Minors may consent to abortion in Hawaii, and neither parental notice or consent is required.

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

Haw. Rev. Stat. § 577A-2 provides that a minor who is seeking family planning services may consent for medical care and services by public and private hospitals or clinics or a licensed physician or advanced practice registered nurse on the same basis as an adult. The consent of no other person is necessary.

Haw. Rev. Stat. § 577A-1 defines a “minor” as any person

age 14 through 17 years inclusive and defines “medical care and services” as the “diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services.” Effective January 1, 2025, the section is amended to replace “venereal diseases” with “sexually transmitted infections.” The statute further provides that “Medical care and services shall include individual counseling for each minor patient by a physician licensed to practice medicine or advanced practice registered nurse” and that “such counseling shall seek to open the lines of communication between parent and child.”

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

Haw. Rev. Stat. § 577-29(a) provides: “Notwithstanding any other law to the contrary, a minor who is fourteen years of age or older may consent to mental health treatment or counseling services provided by a licensed mental health professional or mental health professional if, in the opinion of the licensed mental health professional, the minor is mature enough to participate intelligently in the mental health treatment or counseling services without parental or legal guardian consent, knowledge, or participation; provided that the consent of the minor’s parent or legal guardian shall be required to prescribe medication to the minor or to place the minor into an out-of-home or residential treatment program.”

Haw. Rev. Stat. § 577-29(h) defines “licensed mental health professional,” which includes licensed mental health counselors, marriage and family therapists, clinical social workers, psychologists, physicians, and advanced practice registered nurses, and defines “mental health professional,” which includes individuals who are in training, have met certain requirements, and are working under the supervision of a licensed mental health professional.

Haw. Rev. Stat. § 57A-29(d) provides that a minor may not abrogate consent provided by a parent or legal guardian on the minor’s behalf and a parent or legal guardian may not abrogate consent given by the minor on the minor’s own behalf.

Pregnancy-Related Care

Haw. Rev. Stat. § 577A-2 provides that a female minor age 14 through 17 who is or professes to be pregnant may consent for “medical care and services” by public and private hospitals or clinics or by a licensed physician or advanced practice registered nurse on the same basis as an adult. The consent of no other person is necessary.

Haw. Rev. Stat. § 577A-1 defines a “minor” as any person

age 14 through 17 inclusive and defines “medical care and services” as the “diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services.” Effective January 1, 2025, the section is amended to replace “venereal diseases” with “sexually transmitted infections.” The statute further provides that “Medical care and services shall include individual counseling for each minor patient by a physician licensed to practice medicine or advanced practice registered nurse” and that “such counseling shall seek to open the lines of communication between parent and child.”

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.

Sexually Transmitted Infection/Disease/HIV Care

Haw. Rev. Stat. § 577A-2 provides that a minor who is or professes to be afflicted with a “venereal disease” may consent for medical care and services by public and private hospitals or clinics or a licensed physician or advanced practice registered nurse on the same basis as an adult. The consent of no other person is necessary.

Haw. Rev. Stat. § 577A-1 defines a “minor” as any person age 14 through 17 inclusive and defines “medical care and services” as the “diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services.” Effective January 1, 2025, the section is amended to

replace “venereal diseases” with “sexually transmitted infections.” The statute further provides that “Medical care and services shall include individual counseling for each minor patient by a physician licensed to practice medicine or advanced practice registered nurse” and that “such counseling shall seek to open the lines of communication between parent and child.”

Haw. Rev. Stat. § 325-16 provides that health care provider may not subject a person’s body fluids or tissue to an HIV test unless the subject first provides express oral or written consent to the testing. *Haw. Rev. Stat. § 325-16* provides that no blood bank, plasma center, or any other public or private agency, institution, or individual other than a health care provider may subject a person’s body fluids or tissue to an HIV test unless the subject first provides informed written consent to the testing. The person being tested must be afforded an opportunity to receive HIV counseling and the test results.

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

Haw. Rev. Stat. § 577-26 provides that a minor who “is or professes to suffer from alcohol or drug abuse” may consent on the same basis as an adult for counseling services for alcohol or drug abuse provided by a counselor who is licensed, certified or authorized by law to provide counseling services.

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

Disclosure of Patient Information

Haw. Rev. Stat. § 323B-3 provides that “(a) Notwithstanding any law to the contrary, any use or disclosure of individually identifiable health information by any covered entity or business associate that is permitted by 45 Code of Federal Regulations part 164, subpart E, shall be deemed to comply with all state laws relating to the use, disclosure, or confidentiality of such information. (b) Notwithstanding any law to the contrary, an authorization for release of individually identifiable health information that complies with 45 Code of Federal Regulations section 164.508 shall be deemed to comply with all state laws relating to individual authorization. (c) Notwithstanding any law to the contrary, any notice of breach of unsecured protected health information that complies with 45 Code of Federal Regulations part 164, subpart D, shall be deemed to comply with all state laws relating to notice of breach of protected health information.”

Haw. Rev. Stat. § 323B-4 explains the relationship between the Hawaii Health Care Privacy Harmonization Act, *Haw. Rev. Stat. §§ 323B-1 – 323B-3*, HIPAA, and Part 2 (substance use disorder confidentiality regulations).

Health Maintenance Organization

Haw. Rev. Stat. § 432D-21 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 to any person except . . . upon the express consent of the enrollee or applicant” or for other purposes specified in the section.

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

Discretion of Provider to Disclose

Haw. Rev. Stat. § 577A-3 provides: “Public and private hospitals, or public and private clinics or physicians licensed to practice medicine or advanced practice registered nurses as defined in section 457-2.7 may, at the discretion of the treating physician or advanced practice registered nurse, inform the spouse, parent, custodian, or guardian of any minor patient of the provision of [diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services] to the minor or disclose any information pertaining to such care and services after consulting with the minor patient to whom such medical care and services have been provided under this chapter. If the minor patient is not diagnosed as being pregnant or afflicted with [a] venereal disease, such information as well as the application for diagnosis may be disclosed, at the discretion of the treating physician or advanced practice registered nurse after consulting with the minor patient.”

Effective January 1, 2025, *Haw. Rev. Stat. § 577A-3* provides: “(a) Public or private hospitals, public or private clinics, or licensed health care providers may, at the discretion of the treating licensed health care provider, inform the spouse, parent, custodian, or guardian of any minor patient of the provision of medical care and services to the minor or disclose any information pertaining to the medical care and services after consulting with the minor patient to whom the medical care and services have been provided under this chapter.

(b) If the minor patient is not diagnosed as being pregnant or having a sexually transmitted infection, the information as well as the application for diagnosis may be disclosed, at the discretion of the treating licensed health care provider, after consulting with the minor patient.”

Mental Health

Haw. Rev. Stat. § 577-29(b) provides: “The mental health treatment or counseling services provided to a minor as authorized by [§ 577A-29] shall include involvement of the minor’s parent or legal guardian, unless the licensed mental health professional or mental health professional and licensed mental health professional, after consulting with the minor, determines that the involvement would be inappropriate. The mental health professional shall ensure that the covered entity [as defined under HIPAA in 45 CFR 160.103] has been notified that minor-initiated mental health treatment or counseling services should not be disclosed.”

Haw. Rev. Stat. § 577-29(c) provides: “A covered entity shall have policies and procedures established to maintain nondisclosure of the minor-initiated mental health treatment or counseling services to the parent or legal

guardian in accordance with federal regulations, including 45 Code of Federal Regulations section 164, subpart E.”

Substance Use

Haw. Rev. Stat. § 577-26 provides that “in the provision of counseling services for alcohol or drug abuse, the counselor shall seek to open the lines of communication between the minor and the spouse, parent, custodian, or guardian; provided such action is deemed beneficial in achieving the desired counseling objectives.”

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

Haw. Rev. Stat. § 577D-2(i) provides that if a minor without support consents to health care services as authorized

by § 577D-2; wishes to use a managed care plan or health insurance plan under which they are enrolled to pay for the care; and does not want the plan to disclose information regarding the claim to a spouse, parent, custodian, or guardian, the minor, or the licensed health care practitioner rendering the primary medical care and services on behalf of the minor, shall so notify the plan prior to submitting the claim. The plan may require that the request for confidential communication be made in writing and that it contain a statement that disclosure of all or part of the information to which the request pertains could endanger the minor. The plan shall have fourteen days to make any changes necessary to comply with the request for confidentiality. The plan may accommodate requests by the minor or the licensed health care practitioner to receive communications related to the primary medical care and services by alternative means or at alternative locations.

Haw. Rev. Stat. § 577-29(c) provides that a mental health professional who has provided mental health treatment or counseling services to a minor is entitled to submit a claim to the covered entity for the provision of minor-initiated treatment or counseling services to the minor, but shall not bill for out-of-pocket payments, copayments, coinsurance, or deductibles.

Haw. Rev. Stat. § 577-29(g) provides that when a mental health professional notifies a covered entity that minor-initiated mental health treatment or counseling services should not be disclosed, the covered entity “shall not disclose to the minor’s parent or legal guardian who is a policyholder or other covered person, any billing information, including payments made by the covered entity for minor-initiated mental health treatment or counseling services.”

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

Haw. Const. Art. 1, § 6 provides: “The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right.”

“Conversion Therapy,” Ban

For up to date information on the status of statutes or case

law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors in all 50 states and DC, see [Movement Advancement Project’s “Equality Maps: Conversion “Therapy” Laws.”](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

Haw. Rev. Stat. § 663-1.5 provides for exceptions to liability

for civil damages for emergency medical care provided in good faith in various circumstances.

Financial Responsibility

Haw. Rev. Stat. § 577D-2 provides that a minor without support who consents to health care services under this section must assume financial responsibility and legal obligations of the health care services; notwithstanding any other law to the contrary, a spouse, parent, custodian, or guardian whose consent has not been obtained or who has no prior knowledge that a minor without support has consented to the provision of medical care and services is not liable for the costs. Additionally, this statute provides that an action to recover debt from a minor without support for medical services rendered cannot begin until the minor has reached the age of majority, and the claim must be filed within 2 years of when the minor reaches majority.

Haw. Rev. Stat. § 577A-4 provides that if a minor consents for medical care and services including diagnosis, examination, and administration of medication in the treatment of venereal diseases, pregnancy, and family planning services, the spouse, parent, custodian, or guardian of the minor patient is not financially responsible. A minor who consents for the provision of such medical care and services under this section shall assume financial responsibility for the costs of the medical care and services.

Haw. Rev. Stat. §§ 577-29(e) and (f) provide that if a minor consents to receive mental health treatment or counseling services pursuant to § 577-29, the minor shall not be liable for payment and the minor's parent or legal guardian shall not be liable for payment unless the parent or guardian participates in the mental health treatment or counseling services, and then only for services rendered with the participation of the parent or guardian.

Haw. Rev. Stat. § 577-26 provides that a minor who consents for counseling services for alcohol or drug abuse shall assume financial responsibility for the costs of such services, if any and that no spouse, parent, custodian, or guardian, whose consent has not been obtained or who has no prior knowledge that the minor has consented to the provision of such counseling services for alcohol or drug abuse shall be liable for the costs incurred by virtue of the minor's consent.

Gender Affirming Care

There are no restrictions on gender affirming care in Hawaii at this time.

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

Haw. Rev. Stat. § 577D-2 provides that any licensed health care practitioner who in good faith renders primary medical care and services to a minor without support (as described in *Haw. Rev. Stat. §§ 577D-1 and 577D-2*) has immunity from any civil or criminal liability based on the practitioner's reliance on the minor's consent, whether or not the minor misrepresented the minor's authority.

Minor Parent, Consent for Child's Care

Haw. Rev. Stat. § 577-25 provides that if an emancipated minor is a parent, that minor parent may make decisions and give authority in caring for their child.

Shield Laws

Hawaii enacted [Hawaii Laws Act 2 \(S.B. 1\)](#) in 2023, codified at *Haw. Rev. Stat. §§ 323J-1 – 323J-7*, which includes protections designed to shield Hawaii health care providers from civil and criminal penalty when they legally provide reproductive health services in the state and protects sensitive information from being disclosed related to provision of reproductive health services. The statutes include definitions of key terms.

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

Hawaii Statutes <https://www.capitol.hawaii.gov/hrsall/>

Hawaii Administrative Rules <https://ltgov.hawaii.gov/the-office/administrative-rules/>

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- S** Emancipation
- S** Minor Marriage

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- Outpatient Mental Health Care
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- S** Minor Parent, Consent for Child's Care
- S** Parent Consent
- S** Sufficiency of Consent or Refusal of Consent

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

Idaho Code § 32-101 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 acknowledge emancipation for specific purposes. For example, *Idaho Code § 18-604* defines an emancipated minor, for purposes of accessing contraception and abortion, as a minor who has been married or is in active military service. *Idaho Code § 15-1-201* provides that, for purposes of the Probate Code, any minor who has been married is an emancipated minor. *Idaho Code § 66-402* provides that, for purposes of treatment and care of the developmentally disabled,

“emancipated minor” means an individual between 14 and 18 years of age who has been married or whose circumstances indicate that the parent-child relationship has been renounced.

Minor Marriage

Idaho Code § 32-202 provides that a minor age 16 or older may marry with the written consent, duly acknowledged and sworn, of their father, mother, or guardian. Marriage between a minor age 16 or older and an adult is not allowed if there is more than a three-year age difference. Minors under age 16 are not allowed to marry. *Idaho Code § 32-101* provides that any male or female who has been married is competent to enter a contract, deed of trust, and sue or be sued.

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's Status

No statute or case law was found that expressly authorizes minors to consent to health care based on their status. See “Other” section for related laws.

Minor Consent—Services**Abortion**

Abortion is banned in Idaho with limited exceptions. *Idaho Code § 18-622* bans abortion and imposes criminal penalties on anyone performing an abortion unless the physician determines that the abortion is necessary to save the life of the pregnant woman or the abortion is performed in the first trimester and the pregnancy was the result of rape or incest that was reported to law enforcement. This law was challenged as in conflict with the Emergency Medical Treatment and Labor Act (EMTALA). The federal district court granted an injunction in *United States v. Idaho*, 623 F. Supp. 3d 1096 (2022). Following subsequent proceedings in the District Court and 9th Circuit, the U.S.

Supreme Court issued a stay of the injunction and granted review; on June 27, 2024, the Supreme Court lifted the stay, allowing the injunction against enforcement of the law to continue in effect while the litigation proceeds in the lower courts. Idaho law imposes numerous other restrictions on abortion. For up to date information on the status of abortion restrictions in Idaho, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

Within the limited exceptions in which abortion is legal, *Idaho Code § 18-609A* provides that an unemancipated minor under age 18 may not obtain an abortion without the written informed consent of one parent or a guardian or conservator. The law includes a judicial bypass, a medical emergency exception, and an exception for rape or incest. *Idaho Code § 18-604* provides that for purposes of Chapter 6, “Abortion and Contraceptives,” an emancipated minor is one who has been married or is in active military service. A federal district court held that an earlier version of *Idaho Code § 18-609A* was unconstitutional; enforcement of the

statute was enjoined, and the injunction was upheld on appeal. *Planned Parenthood of Idaho, Inc. v. Wasden*, 376 F.3d 908 (9th Cir. 2004). The US Supreme Court denied review. The statute was amended in 2007 and is currently in effect. 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](#).

Idaho Code § 18-610 provides that a pregnant woman of any age, including a minor, may refuse to consent for an abortion.

Idaho Code § 18-623, enacted in 2023, provides that an “adult who, with the intent to conceal an abortion from the parents or guardian of a pregnant, unemancipated minor, either procures an abortion, as described in section 18-604, Idaho Code, or obtains an abortion-inducing drug for the pregnant minor to use for an abortion by recruiting, harboring, or transporting the pregnant minor within this state commits the crime of abortion trafficking.” The Idaho Attorney General was preliminarily enjoined from enforcing this statute by the federal district court on November 8, 2023. *Matsumoto v. Labrador*, 2023 WL 7388852 (D. Idaho 2023). This is now on appeal to the 9th Circuit.

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 a minor to consent to family planning care. *Idaho Code § 18-603* provides: “A licensed physician or licensed or registered health care provider acting at his direction or medical order may lawfully provide examinations, prescriptions, devices and informational materials regarding prevention of conception to any person requesting the same who, in the good faith judgment of the physician or such provider, is sufficiently intelligent and mature to understand the nature and significance thereof.”

See also “Parent Consent” in “Other.” As of May 2024, no court has ruled on how to interpret these statutes in relation to each other.

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

Idaho Code § 66-318 provides that “[t]he director of any facility or a practitioner granted admitting privileges ... may admit as a voluntary patient the following persons for observation, diagnosis, evaluation, care or

treatment of mental illness:... [a]ny individual fourteen (14) to eighteen (18) years of age who may apply to be admitted for observation, diagnosis, evaluation, care or treatment...”

- For this purpose, *Idaho Code § 66-317* provides that “[f]acility” means “any public or private hospital, state hospital, institution, mental health center, or other organization designated in accordance with rules adopted by the board of health and welfare as equipped to initially hold, evaluate, rehabilitate, or provide care or treatment, or both, for the mentally ill.”
- For this purpose, *Idaho Code § 66-317* provides that “[m]entally ill” means “a condition resulting in a substantial disorder of thought, mood, perception, or orientation that grossly impairs judgment, behavior, or capacity to recognize and adapt to reality and requires care and treatment at a facility or through outpatient treatment.”
- For this purpose, *Idaho Code § 66-317* provides that “[o]utpatient treatment” means “mental health treatment, not involving the continuous supervision of a person in an inpatient setting, that is reasonably designed to alleviate or to reduce a person’s mental illness or to maintain or prevent deterioration of the person’s physical, mental, or emotional functioning. Mental health services or treatment may include, but need not be limited to, taking prescribed medication, reporting to a facility to permit monitoring of the person’s condition, or participating in individual or group therapy.”

Pregnancy-Related Care

No statute expressly authorizes a minor to consent to pregnancy-related care.

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

Idaho Code § 39-3801 provides that notwithstanding any other law, a minor age 14 or older who may have come into contact with any infectious, contagious, or communicable disease may consent for hospital, medical, and surgical care related to the diagnosis or treatment of the disease, so long as the disease is required to be reported. Parent or guardian consent is not necessary.

Idaho IDAPA 16.02.10.100 - 16.02.10.949 list the diseases that are reportable. *Idaho Code § 39-601* provides that syphilis, gonorrhea, human immunodeficiency virus (HIV), chlamydia and hepatitis B virus (HBV) are designated as venereal diseases and declared to be contagious, infectious, and communicable disease. *Idaho Code § 39-602* requires venereal diseases to be reported.

See also “Parent Consent” in “Other.” As of May 2024, no court has ruled on how to interpret these statutes in relation to each other.

Sexually Transmitted Infection/Disease (STI/STD)

Idaho Code § 39-3801 provides that notwithstanding any other law, a minor age 14 or older who may have come into contact with any infectious, contagious, or communicable disease may consent for hospital, medical, and surgical care related to the diagnosis or treatment of the disease, so long as the disease is required to be reported. Parent or guardian consent is not necessary.

Idaho Code § 39-601 provides that syphilis, gonorrhea, human immunodeficiency virus (HIV), chlamydia and hepatitis B virus (HBV) are designated as “venereal diseases” and declared to be contagious, infectious, and communicable disease. *Idaho Code § 39-602* requires “venereal diseases” to be reported.

See also “Parent Consent” in “Other.” As of May 2024, no court has ruled on how to interpret these statutes in relation to each other.

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

Idaho Code § 37-3102 provides that “a person” may request treatment and rehabilitation from a physician for addiction to or dependency on any drug defined as a narcotic or hallucinogenic drug as defined in various sections of the Idaho Code.

See also “Parent Consent” in “Other.” As of May 2024, no court has ruled on how to interpret these statutes in relation to each other.

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

Mental Health

Idaho Code § 16-2428(2) and (3) provide that a “child [age 14 or older] has the right of access to information regarding his treatment [under the Children’s Mental Health Services Act] and has the right to have copies of information and to submit clarifying or correcting statements and other

documentation of reasonable length for inclusion with his treatment record. [and] (3) Nothing in this section shall prohibit the denial of access to records by a child when a physician or other mental health professional believes and notes in the child’s medical records that the disclosure would be damaging to the child. In any case, the child has the right to petition the court for an order granting access.”

IDAPA 16.05.01.125 provides: “An individual who is at least fourteen (14) years old, or a legal representative, may review and obtain a copy of Department [of Health and Welfare] records that pertain to the individual, subject to the exceptions listed in Subsections 125.01 through 125.04 of these rules [related to records of a child’s mental health services if disclosure would be damaging to the child, certain information compiled in or pertaining to legal actions, certain information maintained by a clinical laboratory except as authorized by the provider who ordered the test or study, and health and other confidential information if a licensed professional in an appropriate discipline determines that disclosure is likely to endanger the life or physical safety of the individual or another person]. Disclosure to a legal representative will be denied if there is a professional determination that access by the representative is likely to cause substantial harm to the subject of the record or another person.”

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

Idaho Code § 66-318 provides that “[t]he director of any facility or a practitioner granted admitting privileges ... may admit as a voluntary patient the following persons for observation, diagnosis, evaluation, care or treatment of mental illness:... [a]ny individual fourteen (14) to eighteen (18) years of age who may apply to be admitted for observation, diagnosis, evaluation, care or treatment and the facility director will notify the parent, parents or guardian of the individual of the admission.”

Idaho Code § 16-2428(1) provides: “(1) No person in possession of confidential statements made by a child over the age of fourteen (14) years in the course of treatment [under the Children’s Mental Health Services Act] may disclose such information to the child’s parent or others without the written permission of the child, unless such disclosure is necessary to obtain insurance coverage, to

carry out the treatment plan or to prevent harm to the child or others, or unless authorized to disclose such information by order of a court.”

See also “Parent Access” below. As of May 2024, no court has ruled on how to interpret these statutes in relation to each other.

Substance Abuse

Idaho Code § 37-3102 provides that when a minor age 16 or older seeks treatment or rehabilitation for drug addiction or dependency, the physician shall not disclose the fact that the minor has sought treatment or rehabilitation, or information about the treatment or rehabilitation, to the parents or legal guardian without the minor’s consent. However, the minor shall be counseled as to the benefits of involving parents in the treatment.

See also “Parent Access” below. As of May 2024, no court has ruled on how to interpret these statutes in relation to each other.

Parent Access

Idaho Code § 32-1015, enacted by *Idaho 2024 ch. 148, § 1* and effective July 1, 2024, contains numerous provisions related to “Parental Rights in Medical Decision-making.”

Idaho Code § 32-1015(5) provides: “No health care provider or governmental entity shall deny a minor child’s parent access to health information that is: (a) In such health care provider’s or governmental entity’s control; and (b) Requested by the minor child’s parent[,]” except in the circumstances specified in § 32-1015(6).

Idaho Code § 32-1015(6) provides: “Subsection (5) of this section shall not apply if: (a) Parent’s access to the requested health information is prohibited by a court order; or (b) The parent is a subject of an investigation related to a crime committed against the child, and a law enforcement officer requests that the information not be released to the parent.”

See “Parent Consent” in “Other” for more information on this Act.

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.

“Any Person,” Competence to Self Consent

Idaho Code § 39-4503 provides: “Any person, including one who is developmentally disabled and not a respondent [in a judicial proceeding for the care and treatment of the developmentally disabled], who comprehends the need for, the nature of, and the significant risks ordinarily inherent in any contemplated health care services is competent to consent thereto on his or her own behalf. Any health care provider may provide such health care services in reliance upon such a consent.”

Idaho Code § 39-4502 defines health care services for this purpose as hospital, medical, dental, surgical, or other services “for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.”

See also “Parent Consent” in “Other” for new provisions related to parent consent. As of May 2024, no court has ruled on how to interpret these statutes in relation to each other.

Care in Certain Settings, Notice

Idaho Code § 33-6001 was amended in 2023 to require public schools to adopt policies to promote the involvement of parents and guardians, including a policy that addresses the public school’s responsibility for notifying a student’s parent or legal guardian regarding known changes in the student’s mental, emotional, or physical health or well-being and including a process for staff to encourage students to discuss issues related to the student’s well-being with the student’s parent or legal guardian and, if necessary, to facilitate discussion of the issues with the parent or legal guardian. The public schools are prohibited from adopting policies that prohibit school personnel from notifying a parent or legal guardian about a student’s mental, emotional, or physical health or well-being or a change in related services or monitoring or that encourage or have the effect of encouraging a student to withhold from a parent

or legal guardian such information. However, public schools are not prohibited from adopting procedures that permit public school personnel to withhold information from a parent or legal guardian if ordered by a court of competent jurisdiction.

Emergency

Idaho Code § 39-4504 provides that if a person, including a minor, “presents a medical emergency or there is a substantial likelihood of his or her life or health being seriously endangered by withholding or delay in the rendering of health care services to such person and the person has not communicated and is unable to communicate his or her wishes, the attending health care provider may, in his or her discretion, authorize or provide such health care services, as he or she deems appropriate, and all persons, agencies, and institutions thereafter furnishing the same, including such health care provider, may proceed as if informed valid consent therefor had been otherwise duly given.”

Financial Responsibility

Idaho Code § 39-3801 provides that a parent or legal guardian is not liable for payment for any care related to reportable infectious, contagious, or communicable disease, including HIV and other diseases designated as venereal diseases, for which a minor has given consent.

Gender Affirming Care, Restriction

2023 ID H.B. 71, enacted in 2023, amended *Idaho Code § 18-1506C* to provide that medical practitioners who provide specific categories of gender affirming care to minors, including puberty blockers, hormones, and surgery are guilty of a felony, with exceptions for children born with a medically verifiable disorder of sex development. On December 26, 2023, a preliminary injunction was issued preventing the law from taking effect on January 1, 2024. *Poe v. Labrador*, 2023 U.S. Dist. LEXIS 229332. An appeal is

pending in the U.S. Court of Appeals for the 9th Circuit. On April 15, 2024, the U.S. Supreme Court granted a stay of the injunction, allowing for enforcement of the ban, except as to the named plaintiffs, pending resolution of the appeal in the 9th Circuit and any subsequent petition for certiorari. *Labrador v. Poe*, 2024 U.S. LEXIS 1814. The Idaho legislature amended *Idaho Code* § 18-1506C in the 2024 legislative session and passed § 73-114 which defines terms such as gender, sex, male and female for statutory interpretation purposes.

For up to date information on the status of protections for 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

Idaho Code § 39-4504 provides that a health care provider who, in good faith, obtains consent from a person for their own health care pursuant to § 39-4503 or consent for the health care of another pursuant to § 39-4504(1) is not subject to civil liability on the basis of consent.

Minor Parent, Consent for Child's Care

Idaho Code § 39-4504 provides that a parent who has sufficient comprehension as provided in § 39-4503 to consent for their own care may give or refuse consent for health care services for a minor child. The section does not expressly mention or exclude minor parents. *Idaho Code* § 39-4503 provides that a person "who comprehends the need for, the nature of, and the significant risks ordinarily inherent in any contemplated health care services is competent to consent thereto on his or her own behalf."

Parent Consent/Access

Idaho Code § 32-1015, enacted by *Idaho 2024 ch. 148, § 1* and effective July 1, 2024, contains numerous provisions related to "Parental Rights in Medical Decision-making."

Idaho Code § 32-1015(1) contains definitions of governmental entity, health care provider, health information, health care service, minor child, and parent.

Idaho Code § 32-1015(1)(c) defines "health care service" as "a service for the diagnosis, screening, examination, prevention, treatment, cure, care, or relief of any physical or mental health condition, illness, injury, defect, or disease."

Idaho Code § 32-1015(1)(d) defines "health information" as "information or data, collected or recorded in any form or medium, and personal facts of information about events or relationships that relates to: (i) The past, present, or future physical, mental, or behavioral health or condition of an individual or member of the individual's family; (ii) The provision of health care services to an individual; or (iii) Payment for the provision of health care services to

an individual. § 32-1015(2) provides: "Parents have the fundamental right and duty to make decisions concerning the furnishing of health care services to the minor child."

Idaho Code § 32-1015(3) provides: "Except as otherwise provided by court order, an individual shall not furnish a health care service or solicit to furnish a health care service to a minor child without obtaining the prior consent of the minor child's parent." According to § 32-1015(4), subsection 3 does not apply if a parent has given a "blanket consent" authorizing the provider to furnish the health care service or in limited circumstances related to a medical emergency if certain procedures are followed.

Idaho Code § 32-1015(5) provides: "No health care provider or governmental entity shall deny a minor child's parent access to health information that is: 18 (a) In such health care provider's or governmental entity's control; and (b) Requested by the minor child's parent." According to § 32-1015 (6), subsection (5) shall not apply if: the parent's access to the requested health information is prohibited by a court order; or the parent is a subject of an investigation related to a crime committed against the child and a law enforcement officer requests that the information not be released to the parent.

Idaho Code § 32-1015(7) provides: "This section shall be construed in favor of a broad protection of parents' fundamental right to make decisions concerning the furnishing of health care services to minor children."

Idaho Code § 32-1015(12)(a) provides: "Subject to the limitations of chapter 9, title 6, Idaho Code, any parent who is deprived of a right as a result of a violation of this section shall have a private right of action against the individual, health care provider, or governmental entity."

As of May 2024, no court has ruled on how to interpret these provisions in relation to other current laws in the state.

Sufficiency of Consent or Refusal of Consent

Idaho Code § 39-4506 provides that "consent, or refusal to consent, for the furnishing of health care services shall be valid in all respects if the person giving or refusing the consent is sufficiently aware of pertinent facts respecting the need for, the nature of, and the significant risks ordinarily attendant upon such a person receiving such services, as to permit the giving or withholding of such consent to be a reasonably informed decision. Any such consent shall be deemed valid and so informed if the health care provider to whom it is given or by whom it is secured has made such disclosures and given such advice respecting pertinent facts and considerations as would ordinarily be made and given under the same or similar circumstances."

Resources

Idaho Statutes <https://legislature.idaho.gov/statutesrules/idstat/>

Idaho Administrative Code <https://adminrules.idaho.gov/rules/current/index.html>

ILLINOIS

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Confidentiality and Disclosure

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- S** Minor Parent, Consent for Child
- S** Reproductive Freedom
- S** Right to Refuse
- S** Youth Health and Safety Act

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

755 ILCS 5/11-1 provides that the age of majority is 18.

Emancipation

750 ILCS 30/1 – 30/11 set forth the criteria and procedures for a minor age 16 or older to become emancipated and the effects of emancipation.

750 ILCS 30/2 provides that the purpose of the Emancipation of Minors Act is “to provide a means by which a mature minor who has demonstrated the ability and capacity to manage the minor’s own affairs and to live wholly or partially independent of the minor’s parents or guardian, may obtain the legal status of an emancipated person with power to enter into valid legal contracts.”

750 ILCS 30/9 provides that if “the court determines that the minor is a mature minor who is of sound mind and has the capacity and maturity to manage the minor’s own affairs including the minor’s finances, and that the best interests of the minor and the minor’s family will be promoted by declaring the minor an emancipated minor, the court shall enter a finding that the minor is an emancipated

minor within the meaning of this Act, or that the mature minor is partially emancipated with such limitations as the court by order deems appropriate.”

750 ILCS 30/5 provides that a minor ordered emancipated shall have the right to enter into valid legal contracts and shall have such other rights and responsibilities as the court may order that are not inconsistent with the specific age requirements of the State or federal constitution or any State or federal law. The statute also provides that a mature minor who is partially emancipated under this Act shall have only those rights and responsibilities specified in the order of the court.

Minor Marriage

750 ILCS 5/203 requires parent or guardian consent or court approval for a minor age 16 or 17 to marry. 750 ILCS 5/208 provides: “A marriage license and a marriage certificate form may be issued [by the court] only if the court finds that the underaged party is capable of assuming the responsibilities of marriage and the marriage will serve his best interest. Pregnancy alone does not establish that the best interest of the party will be served.”

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’s Status**Emancipated Minor**

No specific legal provision expressly authorizes emancipated minors to consent for health care. However, 750 ILCS 30/2 provides that a minor who has been fully emancipated has the right to enter into contracts and other rights and responsibilities as the court orders that are not inconsistent with the specific age requirements of law; and that a minor who is partially emancipated has the rights and responsibilities that the court orders.

Married Minor

410 ILCS 210/1 provides that a married minor may consent for health care services by a licensed physician, advanced practice registered nurse, physician assistant, a chiropractic physician, or optometrist and is deemed to have the same legal capacity to act and has the same powers and obligations as has a person of legal age.

Minor Living Apart from Parent/Guardian

410 ILCS 210/1.5 provides that a “minor seeking care”

may provide consent for limited “primary care services” by a licensed physician, advanced practice registered nurse, physician assistant, a chiropractic physician, or optometrist if the health care professional reasonably believes that the minor understands the benefits and risks of any proposed primary care or services and the minor is identified in writing as a minor seeking care by one of several enumerated individuals.

410 ILCS 210/1.5 defines “minor seeking care” as “a person at least 14 years of age but less than 18 years of age who is living separate and apart from his or her parents or legal guardian, whether with or without the consent of a parent or legal guardian who is unable or unwilling to return to the residence of a parent, and managing his or her own personal affairs.” “Minor seeking care” does not include minors who are under the protective custody, temporary custody, or guardianship of the Department of Children and Family Services.

It defines “primary care services” to include screening, counseling, immunizations, medication, and treatment of illness and conditions customarily provided by licensed health care professionals in an out-patient setting, eye care services, excluding advanced optometric procedures, provided by optometrists, and chiropractic services.

Minor, Age or Maturity

In *In re E.G.*, 549 N.E.2d 322 (1989), the Supreme Court of Illinois recognized and discussed the mature minor doctrine with respect to certain health care in Illinois and when minors may have a common law right to control their own health care. *Consultation with counsel is essential to determine the scope of application for this common law rule and how it intersects with statutory law.*

Minor Parent

410 ILCS 210/1 provides that a parent who is a minor may consent for health care services by a licensed physician, advanced practice registered nurse, physician assistant, a chiropractic physician, or optometrist and is deemed to have the same legal capacity to act and has the same powers and obligations as has a person of legal age.

Pregnant Minor

410 ILCS 210/1 provides that a pregnant minor may consent for health care services by a licensed physician, advanced practice registered nurse, physician assistant, a chiropractic physician, or optometrist and is deemed to have the same legal capacity to act and has the same powers and obligations as has a person of legal age.

Minor Consent—Services

Abortion

Abortion is legal and protected in Illinois. 775 ILCS 55/1-5, enacted in 2019 as part of the Reproductive Health Act, “sets forth the fundamental rights of individuals to make

autonomous decisions about one’s own reproductive health, including the fundamental right to use or refuse reproductive health care. This includes...the fundamental right of an individual who becomes pregnant to continue the pregnancy and give birth to a child, or to have an abortion, and to make autonomous decisions about how to exercise that right” and 775 ILCS 55/1-20 prohibits the state from denying, restricting or interfering with this right. 775 ILCS 55/1-25 protects provision of abortion. 775 ILCS 55/1-5 defines key terms in the Act including “reproductive health care” and “abortion.”

Minors may consent to abortion in Illinois, and neither parental notice or consent is required. In 2022, the Illinois Legislature repealed the Parental Notice of Abortion Act, 750 ILCS 70/1/ through 70/99, by 2022 Ill. P.A. 102-865, Sec. 90.

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

325 ILCS 10/1 provides that a licensed physician may provide birth control services and information to any minor who: is married; or is a parent; or is pregnant; or has the consent of a parent or legal guardian; or who is referred for such services by a physician, clergyman, or a planned parenthood agency; or when failure to provide such services would create a serious health hazard to the minor.

775 ILCS 55/1-5, enacted in 2019 as part of the Reproductive Health Act, “sets forth the fundamental rights of individuals to make autonomous decisions about one’s own reproductive health, including the fundamental right to use or refuse reproductive health care. This includes the fundamental right of an individual to use or refuse contraception . . .” and 775 ILCS 55/1-20 prohibits the state from denying, restricting or interfering with this right.

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

405 ILCS 5/3-550 provides that any minor age 12 years or older may request and receive counseling services or psychotherapy on an outpatient basis. The consent of parent, guardian, or person *in loco parentis* is not required. Without the consent of the minor’s parent, guardian, or person *in loco parentis* the services for a minor under age 17 shall be limited to eight 90-minute sessions. The section includes detailed criteria and procedures for determining when services may be continued beyond eight sessions without the consent for the minor’s parent, guardian, or person *in loco parentis*.

Pregnancy-Related Care

410 ILCS 210/1 provides that a pregnant minor may consent for health care services by a licensed physician, advanced practice registered nurse, physician assistant, a chiropractic physician, or optometrist and is deemed to have the same legal capacity to act and has the same powers and obligations as has a person of legal age.

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

410 ILCS 210/3 provides that where a minor is the victim of a predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse or criminal sexual abuse, the minor may consent to health care services or counseling related to the diagnosis or treatment of any disease or injury arising from such offense that is provided by a hospital, physician, chiropractic physician, optometrist, advanced practice registered nurse, physician assistant, or other medical personnel. The consent is not voidable, nor subject to later disaffirmance, because of minority. The consent of the minor's parent or legal guardian need not be obtained.

Sexually Transmitted Infection/Disease/HIV Care

410 ILCS 210/4 provides that a minor 12 years of age or older who may have come into contact with any sexually transmitted disease may give consent to the furnishing of health care services or counseling related to the prevention, diagnosis, or treatment of the disease. Each incident of sexually transmitted disease shall be reported to the State Department of Public Health or the local board of health in accordance with regulations adopted under statute or

ordinance. The consent of the parent, parents, or legal guardian of a minor shall not be necessary to authorize health care services or counseling related to the prevention, diagnosis, or treatment of sexually transmitted disease. The consent of the minor shall be valid and binding as if the minor had achieved their majority. The consent shall not be voidable nor subject to later disaffirmance because of minority.

Ill. Adm. Code tit. 77, § 693.20 provides that HIV and AIDS are included in the list of diseases designated as reportable sexually transmissible diseases by the Department of Public Health.

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

Substance Use Care

410 ILCS 210/4 provides that a minor 12 years of age or older who may be determined to be an intoxicated person or a person with a substance use disorder, as defined in the Substance Use Disorder Act [20 ILCS 301/1-1 et seq.], or who may have a family member who abuses drugs or alcohol, may give consent to the furnishing of health care services or counseling related to the prevention, diagnosis, or treatment of the disease. The consent of the parent, parents, or legal guardian of a minor shall not be necessary to authorize health care services or counseling related to the prevention, diagnosis, or treatment of drug use or alcohol consumption by the minor or the effects on the minor of drug or alcohol abuse by a member of the minor's family. The consent of the minor shall be valid and binding as if the minor had achieved his or her majority. The consent shall not be voidable nor subject to later disaffirmance because of minority.

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

Confidential Communication

410 ILCS 210/1.5 provides that the confidentiality of communication between a health care professional and a “minor seeking care” under this statute is not waived by the presence of additional persons present at the request of the minor, the disclosure of confidential information to such additional person when reasonably necessary to accomplish the purpose for which the additional person is consulted, or by the health care professional billing a health benefit insurance or plan under which the minor seeking care is insured, is enrolled, or has coverage for the services provided.

HIV

The AIDS Confidentiality Act, 410 ILCS 305/1 – 305/16, provides for the confidentiality and disclosure of HIV/AIDS information.

Mental Health

The Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/1 – 11/17, provides for the confidentiality and disclosure of mental health records.

Parent Access

410 ILCS 210/2 provides that a parent who consents to the performance upon the parent’s child of a health care service under this Section shall be entitled, upon request, to inspect and copy the part of that child’s records related to the specific health care service for which the parent is treated as the child’s personal representative under HIPAA, 45 CFR 164.502(g). For purposes of this Section, each appointment, referral, test, treatment, procedure, or other medical intervention is a separate and distinct health care service for the purpose of determining whether a parent is treated as the child’s personal representative under HIPAA, 45 CFR 164.502(g), with respect to that health care service.

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

740 ILCS 110/4, as amended effective January 1, 2024, provides that under the Mental Health and Developmental Disabilities Confidentiality Act, the persons who are entitled to inspect and copy the records of a person receiving mental health or developmental disabilities services include, among others: the parent or guardian of a recipient who is under age 12 years; the recipient who is age 12 or older; or the parent or guardian of a recipient who is at least age 12 but under age 18, if the recipient is informed and does not object or if the therapist does not find that there are compelling reasons for denying the access; a parent or guardian of a recipient who is at least 12 but under 18 years is not prohibited from requesting and receiving the following information: current physical and mental condition, diagnosis, treatment needs, services provided, and services needed, including medication, if any.

405 ILCS 5/3-550 provides that the minor’s parent, guardian, or person *in loco parentis* shall not be informed of outpatient counseling or psychotherapy for which the minor may consent without the minor’s written consent unless the facility director or service provider believes such disclosure is necessary. The facility director or service provider must inform the minor if the parent or guardian is to be notified and the minor must be given the option of discontinuing the counseling or psychotherapy without the parent, guardian, or person *in loco parentis* being informed.

Sexually Transmitted Disease/Infection, Substance Use

410 ILCS 210/4 provides that if a minor agrees, anyone providing health care services to the minor or counseling related to the prevention, diagnosis, or treatment of the minor’s sexually transmitted disease or drug or alcohol use by the minor or member of the minor’s family shall make reasonable efforts to involve the family of the minor, if the health care provider believes familial involvement will not be detrimental to the progress and care of the minor.

Sexually Transmitted Disease/Infection

410 ILCS 210/5 provides that specified health care professionals and counselors who provide diagnosis, treatment or counseling to a minor patient who has come into contact with any sexually transmitted disease referred to in 410 ILCS 210/4 may, but are not obligated to, inform the minor's parent or guardian as to the treatment given or needed.

410 ILCS 305/9(1)(k) provides that if a minor tests positive for HIV, the health care provider who ordered the test shall make a reasonable effort to notify the minor's parent or guardian if, in the professional judgment of the health care provider, notification would be in the best interest of the minor and the health care provider has first sought unsuccessfully to persuade the minor to notify their parent or guardian. This section does not create a duty or obligation for a health care provider to notify the minor's parent or guardian. A health care professional who acts in good faith shall not incur civil or criminal liability either for notifying or for not notifying the minor's parent or guardian.

Substance Use

410 ILCS 210/5 provides that any person who provides counseling to a minor who abuses drugs or alcohol or has a family member who abuses drugs or alcohol *shall not inform* the parent, guardian, or other responsible adult of the minor's condition or treatment without the consent of the minor unless doing so is necessary to protect the safety of the minor, a family member, or another individual. If the minor consents, the person shall make reasonable efforts to involve the family of the minor if the person providing the treatment believes familial involvement will not be detrimental to the minor and reasonable effort shall be extended to assist the minor in accepting the involvement of their family in the care and treatment being given.

20 ILCS 301/30-5(t) provides that under the Substance Use Disorder Act, unless otherwise prohibited by state or federal law, every patient, patient's guardian, or parent, if the patient is a minor, shall be permitted to inspect and copy all clinical and other records kept by the treatment program or physician concerning the minor's care and maintenance.

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

305 ILCS 5/5-30(i) provides that unless otherwise required by federal law, "Medicaid Managed Care Entities" and their business associates shall not disclose, directly or indirectly, including by sending a bill or explanation of benefits, information concerning "sensitive health services" received by enrollees any person other than covered entities and business associates, which may receive, use, and further disclose such information solely in accordance with applicable federal and State laws and regulations.

The Medicaid Managed Care Entity or its respective business associates may disclose information concerning the sensitive health services if the enrollee who received the sensitive health services requests the information from the Medicaid Managed Care Entity or its respective business associates and authorized the sending of a bill or explanation of benefits. Communications including, but not limited to, statements of care received or appointment reminders either directly or indirectly to the enrollee from the health care provider, health care professional, and care coordinators, remain permissible.

For the purposes of this subsection, the term "Medicaid Managed Care Entity" includes Care Coordination Entities, Accountable Care Entities, Managed Care Organizations, and Managed Care Community Networks, and the term "sensitive health services" means mental health services, substance abuse treatment services, reproductive health services, family planning services, services for sexually transmitted infections and sexually transmitted diseases, and services for sexual assault or domestic abuse. Services include prevention, screening, consultation, examination, treatment, or follow-up.

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 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

410 ILCS 210/3 provides that where a hospital, a physician licensed to practice medicine in all its branches, a chiropractic physician, a licensed optometrist, a licensed advanced practice registered nurse, or a licensed physician assistant renders emergency treatment or first aid or a licensed dentist renders emergency dental treatment to a minor, consent of the minor’s parent or legal guardian need not be obtained if, in the sole opinion of the health care provider or hospital obtaining of consent is not reasonably feasible under the circumstances without adversely affecting the condition of the minor’s health.

Financial Responsibility

405 ILCS 5/3-550 provides that the parent or guardian of a minor who has consented to outpatient mental health services is not responsible for the costs of outpatient counseling or psychotherapy for which the parent or guardian or person in loco parentis has not consented.

Gender Affirming Care, Protection

Illinois passed the Lawful Health Care Activity Act (735 ILCS 40/) to protect “lawful health care activity.” 735 ILCS 40/28-10 provides that “lawful health care activity” includes seeking, providing, receiving, assisting in seeking, providing, or receiving, providing material support for, or traveling to obtain “lawful health care” and defines “lawful health care” to include “the treatment of gender dysphoria or the affirmation of an individual’s gender identity or gender expression, including, but not limited to, all supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature that is not unlawful under the laws of this State, including on any theory of vicarious, joint, several, or conspiracy liability.”

For up to date information on the status of restrictions on gender affirming care for minors, see [Movement Advancement Project’s “Equality Maps: Bans on Best Practice Medical Care for Transgender Youth.”](#) See also [Appendix G](#) for further information about gender-affirming care.

Good Faith Reliance/Immunity from Liability

410 ILCS 210/1.5 provides that a health care professional rendering primary care services to a “minor seeking services” under this statute shall not incur civil or criminal liability for failure to obtain valid consent or professional discipline for failure to obtain valid consent if the professional relied in good faith on the representations made by the minor or the information provided by the person identifying the minor in writing. Under such circumstances, good faith shall be presumed.

Minor Parent, Consent for Child’s Care

410 ILCS 210/2 provides that any parent, including a parent who is a minor, may consent to health care for their child provided by a physician licensed to practice medicine in all its branches, a chiropractic physician, a licensed optometrist, a licensed advanced practice registered nurse, or a licensed physician assistant, or a dental procedure by a licensed dentist.

Reproductive Freedom

In 2019, Illinois enacted the Reproductive Health Act, 2019 ILL. ALS 13 | 2019 III. Laws 13 | 2019 ILL. P.A. 13 | 2019 III. SB 25, which “sets forth the fundamental rights of individuals to make autonomous decisions about one’s own reproductive health, including the fundamental right to use or refuse reproductive health care. This includes the fundamental right of an individual to use or refuse contraception or sterilization, and to make autonomous decisions about how to exercise that right; and the fundamental right of an individual who becomes pregnant to continue the pregnancy and give birth to a child, or to have an abortion, and to make autonomous decisions about how to exercise that right. This Act restricts the ability of the State to deny, interfere with, or discriminate against these fundamental rights.”

“Reproductive health care” means health care offered, arranged, or furnished for the purpose of preventing pregnancy, terminating a pregnancy, managing pregnancy loss, or improving maternal health and birth outcomes. Reproductive health care includes, but is not limited to: contraception; sterilization; preconception care; maternity care; abortion care; and counseling regarding reproductive health care.

Right to Refuse

In re E.G., 549 N.E.2d 322 (Ill. 1989) found that a mature minor may exercise a common law right to consent to or refuse medical treatment, including life-sustaining treatment.

755 ILCS 35/3 provides that an emancipated minor may execute a document directing that if the minor is suffering from a terminal condition, then death delaying procedures shall not be utilized for the prolongation of their life.

Shield Laws

Illinois enacted *H.B. 4664* in 2023, an omnibus bill with multiple statutes designed to shield Illinois health care providers from civil and criminal penalty when they legally provide gender affirming or reproductive health services in the state and to protect patients who seek legally protected gender affirming or reproductive health services. Read more about HB 4664 and its provisions here.

For up to date information on the status of abortion protections including shield laws in all 50 states, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#). For up to date information on the status of protections for gender affirming care, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth"](#).

Youth Health and Safety Act

The Youth Health and Safety Act, *20 ILCS 4111/1 - 4111/25*, enacted in 2022 and repealed effective Jan. 1, 2024, required the establishment of a Youth Health and Safety Advisory Working Group to identify laws and regulations that impact pregnant and parenting youth, or that may impact a pregnant or parenting youth, and provide information and resources on topics related to healthcare, including, but not limited to the following: (1) consent to medical care, including what healthcare and treatments are available, and access to confidential treatment and care; (2) pregnancy, abortion, adoption, and parenting; (3) counseling services, including, but not limited to, reproduction and sexual health, pregnancy and post-pregnancy, mental health, family, and parenting; (4) emancipation; and (5) insurance coverage, and to issue a report by July 1, 2023.

Resources

Illinois Statutes <https://www.ilga.gov/legislation/ilcs/ilcs.asp>

Illinois Administrative Code <https://www.ilsos.gov/departments/index/admincodindex.html>

INDIANA

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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
- F** Family Planning/Contraceptives
- Outpatient Mental Health Care
- 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
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Minor Consent to Health Care—Minor's Status

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

Other

- S** Conversion Therapy,⁴ Prohibition on Ban
- S** Emergency Care
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability

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

Ind. Code § 1-1-4-5 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. For purposes of determining whether parents have a continuing duty of support for a minor child, *Ind. Code § 31-16-6-6* provides that a minor is to be considered emancipated if the court finds that the minor has joined the U.S. armed

services, or has married, or is not under the care or control of either parent or an individual or agency approved by the court.

Minor Marriage

Ind. Code §§ 31-11-1-4, 31-11-1-5, and 31-11-1-7 provide that minors age 16 years and older may marry after obtaining judicial approval; however, a minor age 16 or 17 years may not marry an individual more than four years older.

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's Status**Emancipated Minor**

Ind. Code § 16-36-1-3 provides that a minor who is emancipated may consent for their own health care.

Married Minor

Ind. Code § 16-36-1-3 provides that a minor who is or has been married may give consent for their own health care.

Minor in Armed Forces

Ind. Code § 16-36-1-3 provides that a minor who is in the U.S. military may consent to their own health care.

Minor Living Apart from Parent/Guardian

Ind. Code § 16-36-1-3 provides that a minor may consent for their own health care if they are: age 14 years or older; not dependent on a parent for support; living apart from a parent or person *in loco parentis*; and managing their own affairs.

Minor Consent—Services**Abortion**

Abortion is banned in Indiana, with very limited exceptions. The ban enacted in 2022 has been challenged in court and is being litigated in several cases. For up to date information on the status of abortion restrictions in Indiana, 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 *Ind. Code § 16-34-2-4* provides that an unemancipated minor may not obtain an abortion without the written consent of either one parent or a legal guardian. The law includes a judicial bypass, an emergency exception, and an exception if the pregnancy is the result of rape or incest by a parent, guardian or custodian of the 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](#).

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 consent for contraception or family planning 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.

Pregnancy-Related Care

Ind. Code § 16-36-1-3.5 provides that a minor age 16 years or older is competent to give consent for the minor's medical or hospital care and treatment with respect to pregnancy, delivery and postpartum care if the minor is pregnant, in labor, or postpartum during a 60 day period after the birth.

Ind. Code § 16-36-1-3.5 provides that before a provider may provide pregnancy care to a minor under minor consent as authorized by the provision, the provider must, either before or at the initial appointment, make a reasonable effort to contact the minor's parent or guardian for consent to provide the treatment and document in writing each attempt the health care provider made. If, after the provider has made a reasonable attempt to contact the parent or guardian, the provider is unable to make contact or the parent or guardian refuses to provide consent, then the health care provider must act in the best interests of the minor and fetus. If after the initial appointment, the provider determines that additional care is in the best interest of the minor and fetus, the provider must make one additional attempt to contact the parent before continuing care.

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

Ind. Code § 16-21-8-1 provides that a hospital that provides general medical and surgical hospital services shall provide forensic medical exams and additional forensic services to all alleged sex crime victims who apply for forensic medical exams and additional forensic services in relation to injuries or trauma resulting from the alleged sex crime. To the extent practicable, the hospital shall use a sexual assault examination kit to conduct forensic exams and provide forensic services. The provision of services may not be dependent on a victim's reporting to, or cooperating with, law enforcement.

Ind. Code § 16-21-8-1 provides that, for this purpose, the following crimes are considered sex crimes: rape; child molesting; vicarious sexual gratification; sexual battery;

sexual misconduct with a minor; child solicitation; child seduction; and incest.

Ind. Code § 16-21-8-3 provides that a physician or sexual assault nurse examiner who provides forensic medical exams and additional forensic services shall provide the forensic medical exams and additional forensic services to an alleged sex crime victim under this chapter with the consent of the alleged sex crime victim.

In 1978 *Ind. Op. Atty. Gen.* 52, the Indiana Attorney General has opined that neither parent nor guardian consent is necessary when rendering emergency medical and hospital treatment, including forensic exams and services provided by the sexual assault response team, to a minor who is an alleged victim and that requests for such services are emergencies.

Sexually Transmitted Infection/Disease/HIV Care

Ind. Code § 16-36-1-3 provides that an individual who has, or suspects that they have, been exposed to a sexually transmitted infection is competent to give consent for their own medical or hospital care or treatment.

Ind. Code § 16-36-7-27 provides that an individual who has, could be expected to have exposure to, or has been exposed to a sexually transmitted infection is competent to give consent for medical or hospital care or treatment, including preventive treatment, of the individual.

410 IAC 1-2.5-66, in regulations of the Indiana Department of Health governing disease reporting and control, defines "sexually transmitted disease;" the definition includes HIV.

Ind. Code § 16-41-6-1 provides that an HIV test may not be performed unless the physician or the physician's authorized representative does the following: informs the patient of the test, orally or in writing; provides the patient with an explanation of the test orally, in writing, by video, or by a combination of these methods; informs the patient of the patient's right to ask questions and to refuse the test. If the patient refuses the test, the physician or the physician's authorized representative may not perform the test, except in specified circumstances, and shall document the patient's refusal in the patient's medical record.

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

Ind. Code § 12-23-12-1 provides that a minor who voluntarily seeks treatment from the Division of Mental Health and Addiction or a facility approved by the Division for "alcoholism, alcohol abuse, or drug abuse" may receive treatment without notification or consent of the minor's parents, guardian, or person with custody or control of the minor. *Ind. Code § 12-23-12-2* provides that notification or consent is at the discretion of the Division or a facility approved by the division.

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

Access to Records

Ind. Code § 16-39-1-1 provides that a patient has the right to request their health records, to be released to the patient or a designee. *Ind. Code § 16-39-1-2* provides that health records may be requested by an emancipated minor or, for an “incompetent” patient, by a parent, guardian, or custodian. *Ind. Code § 16-39-1-7* provides for access to a minor patient’s health records by a custodial or noncustodial parent. *Ind. Code § 16-18-2-168* defines “health records.” *Ind. Code Ann. § 16-39-2-3* provides that if a health care professional reasonably determines that the information requested under *Ind. Code § 16-39-1-1* is: detrimental to the physical or mental health of the patient; or likely to cause the patient to harm the patient or another, the provider may withhold the information from the patient.

Mental Health

Ind. Code § 16-39-2-3 provides that mental health records are confidential and may only be released with the consent of the patient unless specific exceptions apply. *Ind. Code §§ 16-39-2-4* and *16-39-2-6* specify when mental health records may be withheld or released without the consent of a patient. *Ind. Code § 16-18-2-226* defines “mental health records.” *Ind. Code § 16-39-2-9* provides that a parent or guardian may exercise the rights of a patient who is a minor with respect to the minor patient’s mental health records.

Ind. Code §§ 16-39-4-1 – 16-39-4-6 contain provisions governing the disclosure of mental health information.

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

Substance Use

Ind. Code § 12-23-12-2 provides that when a minor voluntarily seeks treatment from the Division of Mental Health and Addiction or a facility approved by the Division for “alcoholism, alcohol abuse, or drug abuse” notification of the parents, guardian or person with custody and control

of the minor is at the discretion of the Division or a facility approved by the Division.

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," Prohibition on 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, see [Movement Advancement Project's "Equality Maps: Conversion "Therapy" Laws."](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

Specific Indiana statutes suggest that consent is not required in an emergency: e.g., *Ind. Code § 16-36-3-3* (relating to consent for treatment for "incompetent" persons) and *Ind. Code § 34-18-12-9* (relating to medical malpractice and requirements for informed consent).

Gender Affirming Care, Restriction

Ind. Code § 25-1-22-13, enacted in 2023, prohibits practitioners from knowingly providing gender transition procedures, including surgery, puberty blockers, and cross-sex hormones to a minor, with some exceptions for specified medical purposes not related to gender dysphoria. *Ind. Code § 25-1-22-15* provides that a physician or practitioner who "aids or abets" another practitioner in the provision of gender transition procedures for a minor may be subject to professional discipline. A federal district court issued a preliminary injunction against enforcement of certain provisions of the law but the injunction was stayed by the federal appellate court. See *K.C. v. Individual Members of the Med. Licensing Bd. of Ind.*, 677 F. Supp. 3d 802 (S.D. Ind. 2023) (granting a partial preliminary

injunction), No. 23-2366, 2024 U.S. App. LEXIS 4705, 2024 WL 811523 (7th Cir. Feb. 27, 2023) (order staying injunction). The litigation is ongoing.

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

Ind. Code § 16-36-1-10 specifies the circumstances in which a health care provider or other person may be protected from criminal or civil liability or disciplinary action if they act in good faith in reliance on their belief that a "representative" is authorized to make health care decisions on behalf of another person; this may include reliance on authority parents to make decisions on behalf of minors who cannot consent for themselves.

Ind. Code § 12-23-12-2 provides that a criminal action or civil suit may not be maintained against the Division of Mental Health and Addiction or the division's agents for the reasonable exercise of their discretion to require, or not require, parent consent, or notify, or not notify, parent or guardian when a minor voluntarily seeks treatment for "alcoholism, alcohol abuse, or drug abuse."

Indiana Code <https://iga.in.gov/legislative/laws/2022/ic/titles/001>

Indiana Administrative Code <http://iac.iga.in.gov/iac/>

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- S Emancipation
- S Minor Marriage

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- Minor Living Apart from Parent/Guardian
- Minor Parent
- S Minor in State Custody
- Pregnant Minor

Other

- S Emergency Care
- S Financial Responsibility
- S Gender Affirming Care, Restriction

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

Iowa Code § 599.1 provides that the age of majority is 18.

Emancipation

Iowa Code §§ 232C.1 - 232C.4 establish the procedures for a minor to become emancipated. *Iowa Code § 232C.4* provides that an emancipation order shall have the same effect as a minor reaching age of majority except for limited circumstances as described in the statute.

Minor Marriage

Iowa Code § 599.1 provides that a married minor of any age is deemed to have attained the age of majority. The legal requirements for a minor to marry are set forth in *Iowa Code § 595.2*. Minors age 16 or 17 are allowed to marry with parent or guardian consent and a court order.

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's Status**Emancipated Minor**

Iowa Code § 232C.4 provides that an emancipated minor has the right to consent for medical, dental, or psychiatric care.

Married Minor

No provision was found that expressly authorizes married minors to consent for health care. However, *Iowa Code § 599.1* provides that a married minor of any age is deemed to have attained the age of majority.

Minor in Armed Forces

Ind. Code § 16-36-1-3 provides that a minor who is in the U.S. military may consent to their own health care.

Minor in State Custody

Iowa Code § 599.1 provides that a person under age 18 who has been tried and convicted as an adult and committed to the department of corrections is deemed to have attained the age of majority for the purpose of consenting to medical care, related services, and treatment.

Minor Consent—Services**Abortion**

Abortion is legal in Iowa, but there are many restrictions, including a six-week ban. For up to date information on the status of abortion restrictions in Iowa, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

To the extent abortion is legally permitted, minors may consent for abortion, but *Iowa Code § 135L.3* provides that an unmarried minor may not obtain an abortion without advance notification to one parent. The law includes a judicial bypass, an emergency exception, and an exception for cases of child abuse under *Iowa Code chapter 232* or sexual abuse under *Iowa Code chapter 709*. For up to date information on parent involvement laws for abortion in all 50 states, see [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

Iowa Code § 141A.7 provides: “A person may apply for voluntary treatment, contraceptive services, or screening or treatment for HIV infection and other sexually transmitted diseases directly to a licensed physician and surgeon, an osteopathic physician and surgeon, a physician assistant, or a family planning clinic. . . . The minor shall give written consent to these procedures and to receive the services, screening, or treatment.”

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

No specific legal provision expressly authorizes minors to consent for outpatient mental health services apart from services from a mental health professional for rehabilitation and treatment of a substance use disorder under *Iowa Code § 125.33* and services related to sexual assault under *Iowa Code § 915.35*.

Pregnancy-Related Care

No specific legal provision expressly authorizes minors to consent for pregnancy-related care.

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

Iowa Code § 915.35 provide that a professional who has been licensed or certified by the state to provide immediate or short-term medical services or mental health services to minor who has been sexually abused or subjected to any other unlawful sexual conduct may provide these services to a minor without the prior consent or knowledge of the minor’s parents or guardians. The minor must be informed if a child abuse report is required.

Sexually Transmitted Infection/Disease/HIV Care

Iowa Code § 139A.35 provides that a minor may consent for medical care or services for the prevention, diagnosis, or treatment of a sexually transmitted disease or infection by a hospital, clinic, or health care provider and the consent of a parent or other person is not necessary. Such medical care or services shall be provided by or under the supervision of a physician licensed to practice medicine and surgery or osteopathic medicine and surgery, a physician assistant, or an advanced registered nurse practitioner.

Iowa Code § 141A.7 provides: “A person may apply for voluntary treatment, contraceptive services, or screening or treatment for HIV infection and other sexually transmitted diseases directly to a licensed physician and surgeon, an osteopathic physician and surgeon, a physician assistant,

or a family planning clinic. . . . The minor shall give written consent to these procedures and to receive the services, screening, or treatment.”

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

Iowa Code § 125.33 provides that a minor with a substance use disorder may apply for voluntary treatment or rehabilitation services directly to a facility or to a licensed physician and surgeon or osteopathic physician and surgeon or to a mental health professional. This includes both inpatient and outpatient care for addiction or dependence on a “chemical substance”. *Iowa Code § 125.2* defines “facility,” “substance use disorder” and “chemical substance” for this purpose.

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

HIV

Iowa Code § 141A.9 provides for the confidentiality of HIV and AIDS information and records, including HIV test results, and specifies to whom HIV test results may be released and when a written release or court order is required.

Mental Health

Iowa Code §§ 228.1 – 228.11 contain provisions related to the protection and disclosure of mental health and psychological information.

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

Contraception, Sexually Transmitted Disease/Infection/HIV

Iowa Code § 141A.7 provides that the fact that a minor sought or is receiving contraceptive services, or screening or treatment for HIV and other sexually transmitted diseases services or treatment shall not be disclosed.

Iowa Code § 141A.7 also provides that a minor must be informed prior to HIV testing that the facility must notify the minor’s legal guardian if the minor tests positive for HIV. Testing facilities must have available a program to assist minors with the notification process. A testing facility which is precluded by federal statute, regulation, or CDC guidelines from notifying the guardian is exempt from the notification requirement but must have the assistance program in place.

Substance Use

Iowa Code § 125.33 provides that if a minor personally makes application for treatment or rehabilitation services for substance use disorder, the fact that the minor sought treatment or rehabilitation or is receiving services shall not be reported or disclosed to the parents or guardian without the minor's consent.

Sexual Assault

Iowa Code § 915.35 provide that a professional licensed or certified by the state to provide immediate or short-term medical services or mental health services to minor who has been sexually abused or subjected to any other unlawful sexual conduct may provide the services to a minor without the prior knowledge of the minor's parents or guardians. The minor must be informed if a child abuse report is required.

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.

Emergency Care

Iowa Code § 147A.10 allows provision of emergency care to any individual regardless of age without civil liability for failure to obtain consent if the patient is unable to give consent and no other person authorized to give consent is readily available.

Financial Responsibility

Iowa Code § 232C.4 provides that parents are exempt from an obligation to provide medical support for an emancipated minor, unless deemed necessary by the court.

Gender Affirming Care, Restriction

Iowa Code § 147.164 prohibits health care professionals from providing puberty blockers; testosterone, estrogen, or progesterone "in an amount greater than would normally be produced endogenously in a healthy individual of that individual's age and sex", or specified surgeries "for the purpose of attempting to alter the appearance of, or affirm the minor's perception of, the minor's gender or sex, if that appearance or perception is inconsistent with the minor's

sex." Exceptions are included for specific medical purposes. Violations are considered unprofessional conduct and may lead to loss of license. Enforcement may also occur by the Attorney General or by a civil action for damages, injunctive, or declaratory relief.

For up to date information on the status of restrictions and protections 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**.

Resources

Iowa Code <https://www.legis.iowa.gov/law/statutory>

Iowa Administrative Code <https://www.legis.iowa.gov/law/administrativerules>

KANSAS

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- 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
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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

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

Other

- S** Constitution
- S** Emergency Care
- Gender Affirming Care
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Consent when Parent Unavailable
- 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

Kan. Stat. Ann. § 38-101 provides that the age of majority is 18 years except that every person age 16 years or older who is or has been married shall be considered of the age of majority in all matters relating to contracts, property rights, liabilities and the capacity to sue and be sued.

Emancipation

Kan. Stat. Ann. § 38-108 provides that the district courts have the authority to confer majority status on minors in relation to specific rights including those related to contracts and real and personal property, the right to sue and be sued, and in all respects to exercise and enjoy all rights of property and of contracts in the same manner and to the same extent as persons at the age of majority. *Kan. Stat. Ann. § 38-109* explains the petition process.

Minor Marriage

Kan. Stat. Ann. § 23-2505 provides that no marriage license

may be issued to any person who is age 16 or 17 years without the express consent of such person's parent or legal guardian and the consent of the judge unless consent of both parents and any legal guardian or all then living parents and any legal guardian is given in which case the consent of the judge shall not be required. Where the applicants or either of them are age 16 or 17 years and their parents are dead and there is no legal guardian, then a judge of the district court may after due investigation give consent and issue the license authorizing the marriage. A judge of the district court may, after due investigation, give consent and issue the license authorizing the marriage of a person age 15 when the marriage is in the best interest of the person age 15 years.

Kan. Stat. Ann. § 38-101 provides that every person age 16 years or older who is or has been married shall be considered of the age of majority in all matters relating to contracts, property rights, liabilities and the capacity to sue and be sued.

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's Status**Emancipated Minor**

No statute expressly authorizes emancipated minors to consent for health care generally; however, *Kan. Stat. Ann. § 38-109* empowers the district court to order and decree that a minor petitioning for emancipation be empowered to exercise any of the rights mentioned in § 38-108 or supplemental rights, and certain health consent statutes acknowledge emancipated minors having different rights. Also, in *Younts v. St. Francis Hospital and School of Nursing*, 205 Kan. 292 (1970), the Kansas Supreme Court recognized emancipated minor status as one of the exceptions to the requirement of parent consent for a minor's health care.

Minor, Age or Maturity

In *Younts v. St. Francis Hospital and School of Nursing*, 205 Kan. 292, 300-301 (1970), the Kansas Supreme Court adopted as the "proper rules of law" that "generally the consent of a parent to a surgical operation on a child is necessary. Certain exceptions are recognized ... (1) when an emergency exists, (2) when the child has been emancipated, (3) when the parents are so remote as to make it impracticable to obtain consent in time to accomplish proper results and (4) when the child is close to maturity and knowingly gives an informed consent." In *Younts* at 299, the court explained that informed consent means "the patient must have reasonable knowledge of the nature of the surgery and some understanding of the risks involved and the possible results to be anticipated."

In *03 Op. Att’y Gen. 35 (Kan. 2003)*, the Kansas Attorney General opined that given the decision in *Younts*, “a mature minor has the legal capacity to consent to outpatient mental health services.” The Attorney General quoted *Younts*: “In such cases the sufficiency of a minor’s consent depends upon his ability to understand and comprehend the nature of the procedure, the risks involved and the probability of attaining the desired results in the light of the circumstances which attend.”

In *92 Op. Att’y Gen. 26 (Kan. 1992)*, the Kansas Attorney General opined (at page 7 of the opinion) “that medical or surgical care to a minor is authorized when either a mature minor or the legal guardian of an immature minor gives an informed consent to the service.”

In *91 Op. Att’y Gen. 43 (Kan. 1991)*, the Kansas Attorney General, after discussing the reasoning of the court in *Younts v. St. Francis Hospital and School of Nursing*, 205 Kan. 292 (1970), opined that “[a] medical care provider would risk liability by providing medical or surgical treatment to an *unemancipated, immature minor* without parental or guardian consent for even the most minor affliction. The patient must have reasonable knowledge of the nature of the procedure and some understanding of the risks involved and the possible results to be anticipated. An *unemancipated, immature minor* is not considered legally capable of understanding the nature and consequences of any medical or surgical treatment or procedures and therefore is not legally capable of providing an informed consent for any medical or surgical services.” (*emphasis added*)

Consultation with counsel is essential to determine the scope of application for the common law rule described in this case and these opinions, and how the rule intersects with statutory law.

Minor Consent—Services

Abortion

Abortion is legal in Kansas. In *Hodes & Nauser v. Schmidt*, 309 Kan. 610 (2019), the Kansas Supreme Court ruled that *Kans. Const. Bill of Rights § 1* “protects all Kansans’ natural right of personal autonomy, which includes the right to control one’s own body, to assert bodily integrity, and to exercise self-determination. This right allows a woman to make her own decisions regarding her body, health, family formation, and family life—decisions that can include whether to continue a pregnancy” and temporarily enjoined enforcement of *Kansas Stat. §§ 65-6741 – 65-6749* which prohibited performance of certain types of abortion. However, many restrictions on abortion remain in place in Kansas. *For up to date information on the status of abortion restrictions in Kansas*, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

Minors may obtain an abortion, but *Kansas Stat. § 65-6704* requires that before the performance of an abortion upon a

minor, a counselor must provide certain information to the minor. Also a parent or guardian, or a person age 21 years or older who is not associated with the abortion provider and who has a personal interest in the minor’s well-being, shall accompany the minor and be involved in the minor’s decision-making process regarding whether to have an abortion. *Kansas Stat. § 65-6704* also provides that an unemancipated minor may not obtain an abortion without notarized written consent of the minor and both parents or the legal guardian. The law includes a judicial bypass, a sexual abuse exception, and an emergency exception. *For up to date information on parent involvement laws for abortion in all 50 states*, see the “Under Age__” tab on your state’s page on [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 specific legal provision expressly authorizes minors to consent for family planning services or contraceptive services. However, in *87 Op. Att’y Gen. 66 (Kan. 1987)*, the Kansas Attorney General opined that “because minors are protected by the United States Constitution and possess constitutional rights, absolute prohibitions on family planning (contraceptive) services for minors are unconstitutional” and that “[m]andatory parental consent requirements for all contraceptive services to minors are unconstitutional.”

In *92 Op. Att’y Gen. 26 (Kan. 1992)*, the Kansas Attorney General citing this opinion and *Younts v. St. Francis Hospital and School of Nursing*, 205 Kan. 292 (1970), opined (at page 7 of the opinion) “that medical or surgical care to a minor is authorized when either a mature minor or the legal guardian of an immature minor gives an informed consent to the service.”

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

No specific legal provision expressly authorizes minors to consent for outpatient mental health services. However, in *03 Op. Att’y Gen. 35 (Kan. 2003)*, the Kansas Attorney General opined that “a mature minor has the legal capacity to consent to outpatient mental health services.” The Attorney General opined that “in such cases the sufficiency of a minor’s consent depends upon his ability to understand and comprehend the nature of the procedure, the risks involved and the probability of attaining the desired results in the light of the circumstances which attend.”

Pregnancy-Related Care

Kan. Stat. Ann. § 38-123 provides that an unmarried pregnant minor, where no parent or guardian is available, may give consent to the furnishing of hospital, medical and surgical care related to her pregnancy, and such consent shall not be subject to disaffirmance because of minority. The consent of a parent or guardian of an unmarried pregnant minor shall not be necessary in order to authorize hospital, medical and surgical care related to her pregnancy, where no parent or guardian is available.

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

Kan. Stat. Ann. § 65-448 provides that a minor may consent to an examination for sexual assault that is performed by any physician, licensed physician assistant, or registered professional nurse who has been specially trained in performing sexual assault evidence collection and who is on call or on duty at a specified medical or licensed facility or child advocacy center. The written consent of the victim is required and consent of a parent or guardian of the minor is not required for such examination. The minor's consent is not subject to disaffirmance because of minority.

If an examination takes place solely upon the request of the victim, the medical care facility, child advocacy center or other facility where the examination takes place shall not notify any law enforcement agency without the written consent of the victim, unless otherwise required by law.

The statute defines "sexual assault" for this purpose.

Sexually Transmitted Infection/Disease/HIV Care

Kan. Stat. Ann. § 65-2892 provides that any physician may make a diagnostic examination for "venereal disease" upon the consent of a minor under age 18 years and prescribe for and treat such person for "venereal disease" including prophylactic treatment for exposure to "venereal disease" whenever the minor is suspected of having a "venereal disease" or contact with anyone having a "venereal disease." All such examinations and treatment may be performed without the consent of, or notification to, the parent, parents, guardian or any other person having custody of such person.

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

Kan. Stat. Ann. § 65-2892a provides that "any physician licensed to practice the healing arts in Kansas, upon consultation with any minor as a patient, may examine and

treat such minor for drug abuse, misuse or addiction if such physician has secured the prior consent of such minor to the examination and treatment. All such examinations and treatment may be performed without the consent of any parent, guardian or other person having custody of such minor, and all minors are hereby granted the right to give consent to such examination and treatment."

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

HMOs

Kansas Stat. § 40-3226 provides for the confidentiality of information pertaining to the diagnosis, treatment, or health of an enrollee in a health maintenance organization and specifies when the information may be disclosed either with or without the express consent of the enrollee.

Mental Health

Kansas Stat. §§ 65-5601 – 65-5606 contain provisions governing confidential communications and information related to a “mental, alcoholic, drug dependency, or emotional condition” by treatment personnel at a treatment facility, including at a community mental health center.

Kansas Stat. § 65-5602 provides that the patient of a treatment facility has a privilege to prevent disclosure of the confidential communications and information that may be claimed by the patient or the patient’s guardian or conservator. Treatment personnel “shall claim the privilege on behalf of the patient unless the patient has made a written waiver of the privilege and provided the treatment personnel with a copy of such waiver or unless one of the exceptions provided by *Kansas Stat. Ann. 65-5603* is applicable.”

Protected Health Information/Access, Use, and Disclosure

Kansas Stat. §§ 65-6821 – 6835 contain the provisions of the Kansas Health Information Technology Act.

Kansas Stat. § 65-6823 provides that the purpose of the Kansas Health Information Technology Act is to harmonize state law with the HIPAA privacy rule with respect to individual access to protected health information, proper safeguarding of protected health information, and the use and disclosure of protected health information for purposes of facilitating the development and use of health information technology and the sharing of health information electronically. For purposes of the Act, *Kansas Stat. § 65-6825* provides that no “covered entity” shall use or disclose protected health information except as consistent with HIPAA privacy rule provisions.

Kansas Stat. § 65-6824 requires covered entities generally to provide access to an individual’s protected health information in compliance with the HIPAA privacy rule, 45 C.F.R. § 164.524, except that a covered entity defined as a health care provider under *Kansas Stat. § 65-6836*, and amendments thereto, must furnish copies of health care records to a patient, a patient’s authorized representative or any other person or entity authorized by law to obtain or reproduce such records in accordance with the provisions of § 65-6836.

Kansas Stat. § 65-6836 specifies requirements related to time limits, costs, and other issues related to producing records; if records are not available, the patient or authorized representative must be notified of the reasons. *Kansas Stat. § 65-6836* also provides that a health care provider may withhold copies of health care records if the health care provider reasonably believes that providing

copies of the requested records will cause substantial harm to the patient or another person. “Authorized representative” means the person designated in writing by the patient to obtain the health care records of the patient or the person otherwise authorized by law to obtain the health care records of the patient.

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

Contraceptives

In 87 Op. Att’y Gen. 66 (Kan. 1987), the Kansas Attorney General opined that “because minors are protected by the United States Constitution and possess constitutional rights, absolute prohibitions on family planning (contraceptive) services for minors are unconstitutional” and that “[m]andatory parental consent requirements for all contraceptive services to minors are unconstitutional.” However, the Attorney General said “since activities of minors may constitutionally be regulated more strictly than those of adults, reasonable parental consultation restrictions, such as notice, may be placed on a minor’s decision of whether or not to use contraceptive devices.”

Sexual Assault

Kansas Stat. § 65-448 provides that when a minor consents for a sexual assault examination, the medical care facility, child advocacy center or other facility shall give written notice to the parent or guardian of a minor that such an examination has taken place, except when: (A) The medical care facility, child advocacy center or other facility has information that a parent, guardian or family or household member is the subject of a related criminal investigation; or (B) the physician, licensed physician assistant or

registered professional nurse, after consultation with law enforcement, reasonably believes that the child will be harmed if such notice is given.

Sexually Transmitted Disease/Infection

Kan. Stat. Ann. § 65-2892 provides that examinations and treatment for sexually transmitted infection may be performed without notification to the parent, parents, guardian or any other person having custody of such person. Any physician examining or treating a minor for sexually transmitted disease may, but shall not be obligated to, in accord with the opinion of the physician of what will be most beneficial for the minor, inform the spouse, parent, custodian, guardian or fiancé of such person as to the treatment given or needed without the consent of 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 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.

Constitution

Kans. Const. Bill of Rights § 1 states: “All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.”

Emergency Care

Kan. Stat. Ann. § 65-2891 provides that: any healthcare provider may render in good faith emergency care or assistance at the scene of an emergency or accident including treatment of a minor or may render in good faith emergency care or assistance, without compensation, to any minor requiring such care or assistance as a result of having engaged in competitive sports, without first obtaining the consent of the parent or guardian of such minor, and shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

Any healthcare provider also may in good faith render emergency care or assistance during an emergency that occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by the patient’s family or by guardian assumes responsibility for such patient’s professional care.

Gender Affirming Care

There are no restrictions on provision of gender-affirming care to minors in Kansas at this time.

For up to date information on the status of restrictions and protections 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

Kan. Stat. Ann. § 65-2892 provides that when a physician provides diagnostic examination or treatment for “venereal disease,” with the minor’s consent and, without the consent of the minor, informs the minor’s spouse, parent, custodian, guardian, or fiancé of the treatment given or needed, such informing shall not constitute libel or slander or a violation of the right of privacy or privilege or otherwise subject the physician to any liability. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The physician shall incur no civil or criminal liability by reason of any adverse reaction

to medication administered, provided reasonable care has been taken to elicit from the minor under age 18 years any history of sensitivity or previous adverse reaction to the medication.

Kan. Stat. Ann. § 65-2892a provides that when a physician provides diagnostic examination or treatment for substance use the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The physician shall incur no civil or criminal liability by reason of any adverse reaction to medication administered, if reasonable care has been taken.

Kan. Stat. Ann. § 65-2891 provides that when emergency care is provided to a minor without prior parental consent, the healthcare provider rendering such emergency care shall not be held liable for any civil damages other than damages occasioned by either gross negligence, negligence or willful and wanton acts or omissions depending on the emergent situation and location of service.

Minor Consent when Parent Unavailable

Kansas Stat. § 38-123b provides that any minor 16 years of age or over, where no parent or guardian is immediately available, may give consent to the performance and furnishing of hospital, medical or surgical treatment or procedures and such consent shall not be subject to disaffirmance because of minority. The consent of a parent or guardian of such a minor shall not be necessary in order to authorize the proposed hospital, medical or surgical treatment or procedures.

Reproductive Freedom

In *Hodes & Nauser v. Schmidt*, 309 Kan. 610 (2019), the Kansas Supreme Court ruled that *Kans. Const. Bill of Rights § 1* “protects all Kansans’ natural right of personal autonomy, which includes the right to control one’s own body, to assert bodily integrity, and to exercise self-determination. This right allows a woman to make her own decisions regarding her body, health, family formation, and family life—decisions that can include whether to continue a pregnancy” and temporarily enjoined enforcement of *Kansas Stat. §§ 65-6741– 65-6749* which prohibited performance of certain types of abortion. However, many restrictions on abortion remain in place.

Kansas Code https://www.kslegislature.org/li/b2023_24/statute/

Kansas Administrative Code https://sos.ks.gov/publications/pubs_kar.aspx

KENTUCKY

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- 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
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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
- S** Minor Parent
- Minor in State Custody
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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 Parent, Consent for Child's Care
- S** School Health Services, Notification and 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

Ky. Rev. Stat. Ann. § 2.015 provides that the age of majority is 18 (except with regard to the purchase of alcohol and the care and treatment of children with disabilities).

Emancipation

No statute expressly defines emancipated minor in general or specifies a legal process by which a minor may become emancipated.

Minor Marriage

Ky. Rev. Stat. Ann. §§ 402.205 and 402.210 provide that minors under 17 years of age cannot be issued a marriage

license. A minor who is 17 years of age or older may obtain a marriage license if they obtain parent or guardian consent and a court order from the family court or a District Court judge granting them permission to marry and at least 15 days have elapsed since the court order was granted. See Ky. Rev. Stat. Ann. § 402.205 for details on the court process.

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's Status**Emancipated Minor**

Ky. Rev. Stat. Ann. § 214.185 provides that an emancipated minor may consent for hospital, medical, dental, or surgical care.

Married Minor

Ky. Rev. Stat. Ann. § 214.185 provides that minors who have contracted a lawful marriage, even if later annulled or divorced, may consent for hospital, medical, dental or surgical care for themselves or for their child.

Minor Living Apart from Parent/Guardian

Ky. Rev. Stat. Ann. § 214.185 any "qualified mental health professional" may provide outpatient mental health counseling upon the minor's request if the minor is age 16 or older and an "unaccompanied youth" (as defined in 42 U.S.C. § 11434a(6)). 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 Parent

Ky. Rev. Stat. Ann. § 214.185(4) provides that a minor who has borne a child may consent for hospital, medical, dental, or surgical care for themselves or for their child. The consent of a parent or guardian is not necessary.

Minor Consent—Services**Abortion**

Abortion is banned in Kentucky, with limited exceptions including to prevent death or a substantial risk of death, or serious impairment, to the pregnant individual. A trigger ban is currently being enforced. See Ky. Rev. Stat. Ann. § 311.772; See also §§ 311.7701 – 311.7711, 311.990.

However, in November 2022, voters rejected Prop 2, which would have specified that the state constitution does not

protect abortion rights. *For up to date information on the status of abortion restrictions in Kentucky, 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 Ky. Rev. Stat. Ann. § 311.732 provides that no person shall perform an abortion on an unemancipated minor without the informed written consent of both the minor and a parent or guardian with specific documentation and notice requirements. The law contains a judicial bypass and an exception authorizing abortion absent parent consent in emergencies. *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

Ky. Rev. Stat. Ann. § 214.185 provides that any physician may examine, advise, prescribe and treat a minor for contraception. Treatment under this section does not include 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

Ky. Rev. Stat. Ann. § 214.185 provides that any physician may provide outpatient mental health counseling to a minor age 16 or older, upon the request of the minor without the consent of a parent or guardian.

Ky. Rev. Stat. Ann. § 214.185 any “qualified mental health professional” may provide outpatient mental health counseling upon the minor’s request if the minor is age 16 or older and an “unaccompanied youth” (as defined in 42 U.S.C. § 11434a(6)). 42 U.S.C. § 11434a provides that an unaccompanied minor is a child that is either “homeless” or not in the physical custody of a parent or legal guardian. Ky. Rev. Stat. Ann. § 214.185 defines “qualified mental health professional” for this purpose.

Ky. Rev. Stat. Ann. § 222.441 provides that a minor who suffers from emotional disturbance from the effects of a family member or legal guardian’s substance use disorder, or the parent or guardian of the minor, may give consent to the furnishing of medical care or counseling related to the assessment or treatment of the conditions.

Pregnancy-Related Care

Ky. Rev. Stat. Ann. § 214.185 provides that a minor may consent for examination, diagnosis, and treatment for pregnancy and childbirth. Treatment under this section does not include abortion or 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.

Sexual Assault Care

Ky. Rev. Stat. Ann. § 216B.400 provides that a minor may consent for examination services as a victim of a sexual offense, without the consent of a parent or guardian. Minors who are victims of a sexual offense shall also be informed of available services for the treatment of sexually transmitted infections, pregnancy (not including abortion), and crisis intervention and other mental health services available.

Sexually Transmitted Infection/Disease/HIV Care

Ky. Rev. Stat. Ann. § 214.185 provides, with the consent of a minor, a physician may offer diagnostic examination, and may advise, prescribe for, and treat “venereal disease.” 902 Ky. Admin. Regs. 2:080 defines “sexually transmitted disease” for Department of Public Health purposes. Ky. Rev. Stat. Ann. § 214.410 defines sexually transmitted disease for purposes of confidentiality of disease control records. Both definitions include HIV.

Ky. Rev. Stat. Ann. § 214.625 provides that except in an emergency and other limited circumstances, an HIV test may not be performed without the consent of the subject of the test. A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form for HIV testing.

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

Ky. Rev. Stat. Ann. § 214.185 provides that a physician may offer diagnostic examination, and may advise, prescribe for and treat for substance use disorder.

Ky. Rev. Stat. Ann. § 222.441 provides that a minor who suffers from a substance use disorder or emotional disturbance from the effects of a family member’s or legal guardian’s substance use disorder, or the parent or guardian of the minor, may consent to medical care or counseling related to the assessment or treatment of the condition. This statute also provides that a minor undergoing hospitalization or treatment consented to by the parent/guardian but not the minor may petition the District Court to evaluate whether the minor is suffering from a substance use disorder and whether the treatment is necessary for the health and welfare of the minor.

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

Access to Health Information/Medical Records

Ky. Rev. Stat. Ann. § 422.355 provides: “(1) As used in this section, “personal representative” means an individual who has authority under state law to make health care decisions for a patient. (2) The parent of a patient who is under the age of eighteen (18), or a patient’s personal representative on behalf of the patient who is under the age of eighteen (18), shall have the right to access the patient’s health information maintained by a health care provider in a medical record unless prohibited under the federal Health Insurance Portability and Accountability Act of 1996 or any other federal or state law.”

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

Provider Discretion

Ky. Rev. Stat. Ann. § 214.185 provides that when a minor who is emancipated, married, or a parent gives consent for hospital, medical, dental or surgical care, the professional is not required to notify the parents or guardians; however, the provider may inform the parent or legal guardian of any treatment given or needed where, in the judgment of the professional, notification would benefit the health of the minor.

Ky. Rev. Stat. Ann. § 214.185 provides that when a minor gives consent for diagnosis or treatment for sexually transmitted infection, contraception, pregnancy, childbirth or substance use disorder, the professional is not required to notify the parents or guardians; however, the provider may inform the parent or legal guardian where, in the judgment of the professional, notification would benefit the health of the minor.

HIV

Ky. Rev. Stat. Ann. § 214.625(c)(9) provides that the results of an HIV test performed on a minor may be disclosed to a parent, foster parent, or legal guardian.

Mental Health

Ky. Rev. Stat. Ann. § 214.185 provides that when a minor consents to outpatient mental health counseling, the provider may rely in good faith upon the minor's representations regarding their age and status as an unaccompanied youth only after a reasonable attempt to obtain parental consent or to verify the minor's age and status as an unaccompanied youth.

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

Ky. Rev. Stat. Ann. § 214.185(5) provides that medical, dental and other health services may be provided to minors without parent or guardian consent when, in the professional's judgment, the risk to the minor's life or health is of such a nature that treatment should be given without delay and consent would result in delay or denial of treatment.

Financial Responsibility

Ky. Rev. Stat. Ann. § 214.185 provides that when an emancipated minor, married or divorced minor or minor who is a parent consents to their own care, only the minor or their spouse are financially responsible for payment unless other persons expressly agree to assume the cost.

Ky. Rev. Stat. Ann. § 214.185(9) provides that, except as otherwise provided in this section, parents, the Cabinet for Health and Family Services, or any other custodian or guardian of a minor shall not be financially responsible for services rendered under § 214.185 unless they are essential for the preservation of the health of the minor.

Gender Affirming Care, Restriction

Ky. Rev. Stat. Ann. § 311.372 provides that knowingly prescribing any drugs, performing any surgeries, or

conferring any other treatment for the purpose of attempting to alter the appearance of, or to validate a minor's perception of, the minor's sex, if that appearance or perception is inconsistent with the minor's sex. A federal district court preliminarily enjoined enforcement of the law, but the 6th Circuit Court of Appeals reversed the preliminary injunction, thus allowing the law to be enforced as the case proceeds in the district court. *L.W. v Skrmetti*, 83 F.4th 460 (6th Cir. 2023). The U.S. Supreme Court granted review.

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

Ky. Rev. Stat. Ann. § 214.185 provides that a health care provider may rely in good faith on the consent of a minor who represents that they may give effective consent; if the minor misrepresented their authority, the health care provider is not civilly liable on the basis of consent. For purposes of outpatient mental health counseling, the provider may rely in good faith on the representations of the minor after a reasonable attempt to obtain parental consent or to verify the minor's age and status as an unaccompanied youth.

Ky. Rev. Stat. Ann. § 214.185 provides that a professional who provides a minor with services related to sexually transmitted infection, contraception, pregnancy, childbirth or substance use disorder shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment based on the minor's consent, but such immunity shall not apply to any negligent acts or omissions.

Minor Parent, Consent for Child's Care

Ky. Rev. Stat. Ann. § 214.185 provides that a minor who is a parent may consent for hospital, medical, dental, or surgical care for themselves or for their child. The consent of a parent or guardian is not necessary.

School Health Services, Notification and Consent

Ky. Rev. Stat. Ann. § 158.191 provides that a school shall notify parents at the beginning of each school year and if a school changes the health services or mental health services related to human sexuality, contraception, or family

planning that it provides, and shall obtain parental consent prior to providing health services or mental health services.

It also provides that a school shall notify a student's parents if school personnel make a referral for the student to receive a school's health services or mental health services. School personnel will obtain parental consent before making a referral to an external health care provider for health or mental health services and that school districts and district personnel shall respect the rights of parents to make decisions regarding the upbringing and control of the student through procedures encouraging students to discuss mental or physical health or life issues with their parents or through facilitating the discussion with their parents.

Resources

Kentucky Revised Statutes <https://legislature.ky.gov/Law/Statutes/Pages/default.aspx>

Kentucky Administrative Regulations <https://legislature.ky.gov/Law/kar/Pages/default.aspx>

LOUISIANA

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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
- F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- S** **F** Pregnancy-Related Care
- Reportable, Communicable, Infectious Disease Care
- 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

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

Other

- S** Emergency Care
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Afflicted with Illness or Disease
- S** Minor Parent, Consent for Child's Care
- S** Right to Refuse

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

La. Civ. Code Ann. Art. 29 provides that the age of majority is 18.

Emancipation

La. Civ. Code Ann. Art. 365 provides that there are three kinds of emancipation: judicial emancipation, emancipation by marriage, and emancipation by authentic act. *La. Civ. Code Ann. Art. 366* provides that a court may order for good cause the full or limited emancipation of a minor age 16 or older; and that a minor who has received a judgment of full emancipation enjoys full effects of majority unless otherwise specified by law. For the procedures related to a

petition for emancipation, see *La. Code Civ. Proc. Art. 3991 – 3998*. According to *La. Civ. Code Ann. Art. 367*, a minor is emancipated by marriage, and a married minor who is divorced or widowed continues to maintain emancipated status. *La. Civ. Code Ann. Art. 368* provides that limited “emancipation by authentic act” may occur by a writing agreement between a minor and the minor’s parents notarized in accordance with *La. Civ. Code Ann. Art. 1833*.

Minor Marriage

La. Civ. Code Ann. Art. 2333 provides that minors under age 16 cannot marry. Minors who are 16 or 17 only may marry with judicial authorization and the consent of the minor’s parents, parent with legal custody, or tutor.

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’s Status**Emancipated Minor**

La. Civ. Code Ann. Art. 366 provides that a minor who has received a judgment of full emancipation enjoys full effects of majority unless otherwise specified by law. See *La. Rev. Stat. Ann. § 40:1159.4* for medical consent authority for adults. *La. Civ. Code Ann. Art. 368* provides that if a minor achieves limited emancipation through a written agreement with their parents, the minor has the capacity to make the kinds of juridical acts specified in the contract. A juridical act is a lawful volitional act intended to have legal consequences, according to the 2000 Revision comments to *La. Civ. Code Ann. Art. 395*.

Married Minor

No statute expressly authorizes married minors to consent for health care. However, *La. Civ. Code Ann. Art. 367* provides that a minor is emancipated by marriage and a married minor who is divorced or widowed continues to maintain emancipated status. *La. Civ. Code Ann. Art. 366*

provides that a minor who has received a judgment of full emancipation enjoys full effects of majority unless otherwise specified by law.

Minor Consent—Services**Abortion**

Abortion is banned in Louisiana with limited exceptions. See *La. Rev. Stat. Ann. §§ 40:1061 & 40:1061.1*. For up to date information on the status of abortion restrictions in Louisiana, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

Within the limited exceptions in which abortion is legal, *La. Rev. Stat. Ann. § 40:1061.14*, as amended effective August 1, 2022, provides that an unmarried, unemancipated minor may not obtain an abortion without the consent of a parent or legal guardian. The law includes a judicial bypass. *La. Rev. Stat. Ann. § 40:1061.14(C)* provides that nothing in § 40:1061.14 “shall be construed as creating or recognizing

a right to abortion.” *La. Rev. Stat. Ann. § 40:1061.14(E)* provides that the intent to restrict abortion described in § 40:1061.1 applies to minor’s access to abortion under this statute. *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

No specific statute expressly authorizes minors to consent for family planning services or contraceptive 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

No specific statute expressly authorizes minors to consent for outpatient mental health services.

La. Children’s Code Art. 1464 provides that minors age 16 years or older may apply for voluntary admission to a “treatment facility.”

La. Children’s Code Art. 1464 provides that at the discretion of the director, any minor age 16 years or older with mental illness suffering from substance abuse, who desires admission to a treatment facility for diagnosis or treatment of a psychiatric disorder or substance abuse, may be admitted upon the minor patient’s request without a formal application and, if admitted, shall have the right to leave the treatment facility at any time during the normal day-shift hours of operation.

La. Children’s Code Art. Art. 1404 defines “treatment” as “an active effort to accomplish an improvement in the mental condition or behavior of a patient or to prevent deterioration in his condition or behavior. Treatment includes but is not limited to hospitalization, partial hospitalization, outpatient services, examination, diagnosis, training, the use of pharmaceutical, and other services provided for patients by a treatment facility.” “Treatment facility” means any public or private hospital, retreat, institution, mental health center, or facility licensed by the state of Louisiana in which any minor with mental illness or minor suffering from substance abuse is received or detained as a patient except a facility under the control or supervision of the Department of Public Safety and Corrections unless otherwise provided in Title VIII of this Code.

Pregnancy-Related Care

La. Rev. Stat. Ann. § 40:1079.1 provides that a minor

may consent for medical care or the administration of medication for the purpose of alleviating or reducing pain, discomfort, or distress of and during for labor and 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.

Sexually Transmitted Infection/Disease/HIV Care

La. Rev. Stat. Ann. § 40:1121.8 provides that minors who are or believe themselves to be afflicted with a “venereal disease” may consent to medical or surgical care or services by a hospital, public clinic or physician.. Parent or guardian consent is not necessary.

La. Rev. Stat. Ann. § 40:1121.1 defines “venereal disease” to include syphilis, gonorrhea, chancroid, or any other infectious disease primarily transmitted from one person to another by means of a sexual act.

La. Rev. Stat. Ann. § 40:1171.3 provides that in the event HIV diagnostic testing is offered as a part of routine medical screening, testing shall be performed unless the patient declines or “opts out” of the testing; a separate consent form for HIV testing is not required. This provision shall not apply to the performance of an HIV test “on any child when the child’s attending physician reasonably believes such test to be necessary in order to properly diagnose or treat the child’s medical condition and documents such reason in the child’s medical record, including all newborns whose mothers present for delivery without a diagnostic HIV test on record.”

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

La. Rev. Stat. Ann. § 40:1079.2 provides that minors who are or believe themselves to be addicted to a narcotic or other drug may consent for medical or surgical care or services by a hospital, public clinic or physician. Parent or guardian consent is not necessary.

La. Rev. Stat. Ann. § 40:1079.13 provides that a school or facility may provide preventive counseling or treatment to a child without parental consent if all of the following conditions are met: the child requests such preventive counseling and treatment; the child withholds permission to contact his or her parents to seek consent; a qualified professional reasonably determines in good faith and based on independent evidence that seeking parental consent would not be helpful and would be harmful to the child; the child provides a statement of his or her reason for seeking preventive counseling or treatment and provide written consent for such services. When requesting a child’s written consent for providing preventive counseling or treatment, the school or facility shall comply

with all of the following: advise the child of the purpose and nature of the preventive counseling or treatment; inform the child that the school or facility will maintain a confidential written record of the services provided; inform the child that he or she may withdraw consent and cease participating in the preventive counseling or treatment at any time. According to *La. Rev. Stat. Ann. § 40:1079.11*, it is the purpose of *La. Rev. Stat. Ann. §§ 1079.13* to provide for access to preventive alcoholism and addiction counseling or treatment by qualified professionals for minor children. *La. Rev. Stat. Ann. § 1079.12* defines “preventive

alcoholism and addiction counseling”, also referred to as “preventive counseling”, as “services, general guidance and support, or service coordination, including but not limited to individual and group counseling, support services, and education about alcohol and other drugs and their effects, which are provided by a qualified professional to prevent a child from developing or suffering from alcoholism, alcohol or drug addiction, alcohol or drug abuse, or related physical, emotional, or mental health problems.” The statute also defines “qualified professional” and “treatment” for this purpose.

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

HIV Information

La. Rev. Stat. § 40:1171.4 specifies the circumstances in which HIV test results may be disclosed with or without a written authorization. The restrictions on disclosure generally do not apply “to the individual or to a natural person who is authorized by law to consent to health care for the individual.”

Medical Information/Records

La. Rev. Stat. § 22:265 provides that information pertaining to the diagnosis, treatment, or health of any enrollee or potential enrollee obtained by a health maintenance organization is confidential and may only be disclosed with the express consent of the enrollee or potential enrollee or

if other requirements are satisfied.

La. Rev. Stat. § 40:1165.1 provides that a patient or their legal representative have a right to access their medical records maintained by a health care provider.

La. Admin. Code tit. 48, pt. 1, §§ 501 – 513 provide for the confidentiality and disclosure of medical records. *La. Admin. Code tit. 48, pt. 1, § 503* contains definitions of relevant terms.

La. Admin. Code tit. 48, pt. 1, § 505 provides that, except when disclosure is authorized without patient consent under § 509 or required for child abuse reporting under § 1311 of these rules, medical information concerning a minor can only be disclosed with the written consent of the parent or tutor of the minor. However, if the minor has

consented to medical treatment pursuant to *La. Rev. Stat. Ann* §§ 40:1095 (treatment for illness or disease), 40:1095 (treatment for drug abuse), or 40:1065 (treatment for venereal disease), medical information can only be disclosed with the consent of the minor. Consent to disclosure of medical information which has been executed by a minor shall not be subject to a later disaffirmance by reason of minority. Upon the advice and direction of a treating physician, a physician or a member of a medical staff may, but shall not be obligated to, inform the spouse, parent or tutor of the minor as to the treatment given or needed and this information may be given or withheld without the consent and over the express objection of the minor.

Substance Use Information

La. Rev. Stat. § 37:3390.4 provides, for purposes of the Addictive Disorders Act: “No person holding a credential or status recognized by the board and authorized by this Chapter may disclose any information he may have acquired from persons consulting him in his professional capacity where the information was necessary to enable him to render services to those persons except: (1) With the written consent of the client, or in the case of death or disability, with the written consent of his personal representative, other persons authorized to sue, or the beneficiary of any insurance policy on his life, health, or physical condition.” The section also contains exceptions for disclosure without the consent of the client or personal representative when the information indicates that the person was a minor and the victim of a crime that may require testimony or the information is about a child and is subject to a mandatory reporting requirement. *La. Rev. Stat. § 37:3386.1* contains definitions of relevant terms.

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

Illness or Disease/Labor or Childbirth

La. Rev. Stat. Ann. § 40:1079.1 provides that when minors

who believe themselves to be afflicted with an illness or disease consents for medical or surgical care or services, or when a minor consents to medical care or the administration of medication for labor or childbirth, upon the advice and direction of a treating physician or medical staff, a member of the medical staff may, but is not obligated to, inform the parent or guardian of the minor as to the treatment given or needed. This information may be given or withheld without the consent and over the express objection of the minor.

Substance Use

La. Rev. Stat. Ann. § 40:1079.2 provides that when minors, who are or believe themselves to be addicted to a narcotic or other drug, consent for medical or surgical care or services, upon the advice and direction of a treating physician or medical staff, a member of the medical staff may, but is not obligated to, inform the parent or guardian of the minor as to the treatment given or needed. This information may be given or withheld without the consent and over the express objection of the minor.

La. Rev. Stat. Ann. § 40:1079.15 provides that any school or facility that provides preventive alcohol and addiction counseling or treatment to a child shall seek, only with the written consent of the child, the involvement of a parent, family member, or other individual close to the child. Such involvement shall be in conformity with the confidentiality requirements of § 40:1079.18.

La. Rev. Stat. Ann. § 40:1079.18 provides that the identity of persons receiving preventive counseling or treatment and all records containing information regarding the provision of preventive alcohol and addiction counseling or treatment shall be confidential and that no qualified professional or employee of a school or facility providing preventive counseling or treatment shall disclose any records or information in such records containing the identity of any child receiving preventive counseling or treatment except in compliance with state and federal laws and regulations.

Sexually Transmitted Disease/Infection

La. Rev. Stat. Ann. § 40:1065.1 provides that when minors who are or believe themselves to be afflicted with a “venereal disease” consent for medical or surgical care or services, upon the advice and direction of the treating physician or medical staff, a member of the medical staff may, but is not obligated to, inform the parent or guardian of the treatment given or needed. This information may be given or withheld without the consent and over the express objection of the minor.

La. Rev. Stat. Ann. § 40:1121.8 provides that when minors are or believe themselves to be afflicted with a “venereal disease” consent for medical or surgical care or services for a “venereal disease” under this statute, upon the advice and direction of the treating physician or medical staff, a member of the medical staff may, but is not obligated to, inform the parent or guardian of the treatment given or

needed. This information may be given or withheld without the consent and over the express objection of 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

La. Rev. Stat. Ann. § 40:1159.5 provides that consent for surgical or medical treatment or procedures is implied where an emergency exists. An emergency exists where competent medical judgment determines that the proposed surgical or medical treatment or procedures are reasonably necessary; *and* a person authorized to consent is not readily available and any delay in treatment could reasonably be expected to jeopardize the life or health of the affected person, or could reasonably result in disfigurement or impaired faculties. An emergency also exists when a person transported to a hospital from a licensed health care facility is not in a condition to consent; *and* a person authorized to consent is not readily available; *and* any delay would be injurious to the health and well being of the patient. According to *La. Rev. Stat. Ann. § 40:1159.2*, this does not authorize abortion or sterilization. In *75 Op. Att'y Gen. 1740 (La. Jan. 22, 1976)*, the Louisiana Attorney General found that consent for emergency medical or surgical care is excused or implied by law and emergency care may be provided to a minor who cannot consent when the person authorized to consent cannot be reached.

Gender Affirming Care, Restriction

La. Rev. Stat. Ann. § 40:1098.2 prohibits health care professionals from knowingly engaging in certain acts that attempt to alter a minor's appearance in an attempt to validate a minor's perception of the minor's sex, if the minor's perception is inconsistent with the minor's sex, including providing puberty blockers; testosterone, estrogen, or progesterone "in an amount greater than would

normally be produced endogenously in a healthy individual of that individual's age and sex", or specified surgeries "for the purpose of attempting to alter the appearance of, or affirm the minor's perception of, the minor's sex, if that appearance or perception is inconsistent with the minor's sex."

The statute provides that "if, prior to January 1, 2024, a healthcare professional has initiated a course of treatment for a minor which includes the prescription or administration of any drug or hormone prohibited by this Part, and if the healthcare professional determines and documents in the minor's medical record that immediately terminating the minor's use of the drug or hormone would cause harm to the minor, the healthcare professional may institute a period during which the minor's use of the drug or hormone is systematically reduced and discontinued. The period may not extend beyond December 31, 2024."

La. Rev. Stat. Ann. § 1098.4 provides that minors may not consent to any procedures prohibited by *§ 1098.2*.

For up to date information on the status of restrictions and protections 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

La. Rev. Stat. Ann. § 40:1079.1 provides that no hospital and no physician licensed to practice medicine in the state

shall incur civil or criminal liability in connection with any examination, diagnosis and treatment except for negligence when minors who believe themselves to be afflicted with an illness or disease consent for medical or surgical care or services, upon the advice and direction of a treating physician or medical staff, or when a minor consents to medical care or the administration of medication for labor or childbirth.

Minor Afflicted with Illness or Disease

La. Rev. Stat. Ann. § 40:1079.1 provides that minors may consent for the provision of medical or surgical care or services if they believe themselves to be afflicted with an illness or disease. Parent or guardian consent is not necessary.

76 Op. Att’y Gen. 4 54 (La. Mar. 30, 1976) provides that in light of the legislature’s mandate that *La. Rev. Stat. Ann.*

§ 40:1079 (previously § 40:1095) be liberally construed, juveniles may consent for the treatment of traumatic injuries in addition to illness or disease.

Minor Parent, Consent for Child’s Care

La. Rev. Stat. Ann. § 40:1159.4 provides that a minor parent may consent for surgical or medical treatment or procedures for their child. According to *La. Rev. Stat. Ann. § 40:1159.2*, this does not include abortion or sterilization, which are subject to other consent laws.

Right to Refuse

In *La. Atty. Gen. Op. No. 88-232 (1988)*, the Louisiana Attorney General found that a minor has the right to consent for medical treatment when they believe they are afflicted with an illness or disease but has no right to refuse medical treatment when their parents consent for it.

Resources

Louisiana Statutes <https://www.legis.la.gov/legis/law-search.aspx>

Louisiana Administrative Code <https://www.doa.la.gov/doa/osr/louisiana-administrative-code/>

MAINE

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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
- 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
- S** 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** Financial Responsibility
- S** Gender Affirming Care, Minor Consent
- S** Gender Affirming Care, Protection
- S** Good Faith Reliance/Immunity from Liability
- S** Right to Refuse
- S** Shield Laws
- S** Sterilization, 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

1 M.R.S. § 73 provides that the age of majority is 18.

Emancipation

15 M.R.S. § 3506-A specifies the criteria for granting a petition for emancipation to a minor 16 and older.

Minor Marriage

19-A M.R.S. § 652 provides that a marriage license may not be issued to persons who are 17 years of age without the written consent of their parents, guardians or persons to

whom a court has given custody. In the absence of persons qualified to give consent, the judge of probate in the county where each minor resides may grant consent after notice and opportunity for hearing. The statute does not allow marriage by persons under age 17.

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's Status**Emancipated Minor**

22 M.R.S. § 1503 provides that a minor who has been emancipated by the court may consent for medical, mental, dental, and other health counseling and services.

Married Minor

22 M.R.S. § 1503 provides that a minor who is or was legally married may consent for medical, mental, dental, and other health counseling and services.

Minor in Armed Forces

22 M.R.S. § 1503 provides that a minor who is or was in the armed forces may consent to medical, mental, dental, and other health counseling services.

Minor Living Apart from Parent/Guardian

22 M.R.S. § 1503 provides that a minor who has been living separately and is independent of parental support may consent for medical, mental, dental, and other health

counseling and services. A minor may prove they meet the requirements with documentation including but not limited to: (1) a written statement signed by a representative of an agency that provides homeless services, a local education agency or school social worker, or an attorney representing the minor which affirms that the minor is living separately and is independent of parental support. (2) a protection from abuse complaint or a temporary or final order of protection against the minor's parent or legal guardian; or (3) proof of filing of a petition for emancipation.

Minor Consent—Services**Abortion**

Abortion is legal and protected in Maine. 14 M.R.S. § 9001 provides that "access to ...reproductive health care services in this State, as authorized under the laws of this State, is a legal right." 22 M.R.S. § 1598 provides in part: "It is the public policy of the State that the State not restrict a woman's exercise of her private decision to terminate a pregnancy before viability except as provided in section 1597-A. ...The State intends to occupy and preempt the entire field of legislation concerning the regulation of a

person's decision to terminate a pregnancy and legislation concerning the provision of abortion...After viability, an abortion may be performed only when it is necessary in the professional judgment of a physician"

Minors may consent for abortion in Maine, but 22 M.R.S. § 1597-A provides that a minor may not obtain an abortion unless she has received counseling from a physician, psychiatrist, psychologist, social worker, clergy member, nurse, or qualified counselor, regarding her alternatives, the services available to her, and the possibility of involving her parents, guardian or adult family member. The information and counseling to be provided is defined in the statute. In addition, for a minor to obtain an abortion, one of the following is necessary: the informed written consent of the minor and a determination by the physician that she is mentally and physically competent to give consent; or the informed written consent of the minor and one parent, guardian, or adult family member; or the informed written consent of the minor and written verification that she has received specified counseling from an authorized individual; or a court order granting her majority rights for the purpose of consenting to the abortion and the informed written consent of the minor; or a court order permitting the minor to consent or granting consent. The statute describes the process to obtain a court order. *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](#). For up to date information on parent involvement laws for abortion in all 50 states, see [If When How's Abortion Laws by State](#). See also Appendix C. These laws are changing rapidly, so consultation with counsel is also essential.

Family Planning/Contraceptives

22 M.R.S. § 1908 provides that family planning services may be provided to any minor by a health care practitioner. The consent of a parent is not required.

22 M.R.S. § 1902 defines "family planning services" as medically safe and effective sexual and reproductive health care and education that enable persons to freely plan their children, avoid unintended pregnancy and maintain reproductive and sexual health through the provision of contraceptive supplies, contraceptive procedures and related counseling; the prevention and treatment of infertility; appropriate prenatal and obstetric care; the prevention or treatment of sexually transmitted infections; and other services necessary for reproductive and sexual health and defines "health care practitioner" as an individual who is licensed, certified or otherwise authorized under the laws of the State to provide health care 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

22 M.R.S. § 1502 provides that a minor may consent for treatment for emotional or psychological problems.

Pregnancy-Related Care

22 M.R.S. § 1908 provides that family planning services may be provided to any minor by a health care practitioner. The consent of a parent is not required. 22 M.R.S. § 1902 defines "family planning services" to include "appropriate prenatal and obstetric care[.]"

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

22 M.R.S. § 1507 provides that a minor may consent for health services associated with a sexual assault forensic examination to collect evidence after an alleged sexual assault.

22 M.R.S. § 1823 provides that a hospital or facility providing facilities to a minor for the collection of sexual assault evidence through a sexual assault forensic examination may provide these services without the consent of the minor's parent or guardian.

32 M.R.S., § 3292 provides that a physician may provide services to a minor for the collection of sexual assault evidence through a sexual assault forensic examination without the consent of the minor's parents or guardian.

32 M.R.S. § 2595 provides that an osteopathic physician may provide services to a minor for the collection of sexual assault evidence through a sexual assault forensic examination without the consent of a parent or guardian.

Sexually Transmitted Infection/Disease/HIV (STI/STD/HIV)

22 M.R.S. § 1908 provides that family planning services may be provided to any minor by a health care practitioner. The consent of a parent is not required. 22 M.R.S. § 1902 defines "family planning services" as including the prevention or treatment of sexually transmitted infections. 22 M.R.S. § 1823 provides that a hospital or drug or alcohol treatment facility may provide prevention or treatment to a minor for sexually transmitted infection. without the consent of the minor's parents or guardian. 32 M.R.S. § 3292 provides that a physician may provide medical care to a minor for prevention or treatment of sexually transmitted infection without obtaining the consent of the minor's parents or guardian. 32 M.R.S. § 2595 provides that an osteopathic physician may provide medical care to a minor for prevention or treatment of a sexually transmitted disease without the consent of the minor's parents or guardian.

5 M.R.S. § 19203-A provides that an HIV test must be voluntary and undertaken only with a patient's knowledge and understanding that an HIV test is planned. A patient must be informed orally or in writing that an HIV test will be performed unless the patient declines. Oral or written information required to be given to a patient under this subsection must include an explanation of what an HIV infection involves and the meaning of positive and negative test results. A patient must be provided the opportunity to ask questions, either orally or in writing. Informed consent is not required for repeated HIV testing by health care providers to monitor the course of established infection. 5 M.R.S. § 19201 defines a person as any natural person.

22 M.R.S. § 1823 provides that a hospital or alcohol or drug treatment facility may provide treatment to a minor in connection with the prevention of a sexually transmitted infection or the treatment of that minor for a sexually transmitted infection without the consent of the minor's parents or guardian if the treatment has been provided at the direction of physicians, osteopathic physicians, psychologists, substance abuse counselors, or social workers.

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

22 M.R.S. § 1502 provides that a minor may consent for treatment for substance use disorder.

22 M.R.S. § 1823 provides that a hospital or alcohol or drug treatment facility may provide treatment to a minor for substance use without the consent of the minor's parents or guardian if the treatment has been provided at the direction of physicians, osteopathic physicians, psychologists, substance abuse counselors, or social workers. The hospital shall notify and obtain the consent of that minor's parent or guardian if that hospitalization continues for more than 16 hours.

32 M.R.S. § 3292 provides that a medical doctor may treat a minor for substance use without the consent of the minor's parents or guardian. 32 M.R.S. § 2595 provides that an osteopathic physician may treat a minor for substance use without the consent of the minor's parents or guardian.

32 M.R.S. § 3817 provides that a psychologist may treat a minor for substance use without the consent of the minor's parents or guardian. 32 M.R.S. § 6221 provides that a drug abuse counselor may provide counseling to a minor for problems associated with substance use without the consent of the minor's parents or guardian. 32 M.R.S. § 7004 provides that a social worker may provide social work services to a minor for problems associated with substance use without the consent of the minor's parents or guardian.

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

Disclosure of Patient Information

22 M.R.S. § 1505 provides that a minor who may consent for health care services is entitled to the same confidentiality afforded to adults except as otherwise provided by law.

22 M.R.S. § 1711 provides that, subject to certain exceptions, a minor who has legally given their own consent for health care may request and obtain copies of hospital records and may request correction or clarification of the records.

22 M.R.S. § 1711-B provides that a minor who has lawfully given their own consent for health care may obtain copies of their treatment records and may request correction or clarification of the records. Although § 1711-B generally allows a parent to have access to a minor's records, it does not affect the right of a minor to have records treated confidentially that pertain to care for which the minor may consent.

22 M.R.S. § 1711-C provides that when a minor has lawfully consented for health care, authorization to disclose health care information pursuant to § 1711-C must be obtained from the minor, unless otherwise provided by law.

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

Minor Consent Services

22 M.R.S. § 1505 provides that a minor who may

consent for health care services is entitled to the same confidentiality afforded to adults except as otherwise provided by law.

Substance Use, Mental Health

22 M.R.S. § 1505 provides that a health care practitioner or health care provider may notify the parent or guardian of a minor who has sought health care for substance use or for emotional or psychological problems under 22 M.R.S. §§ 1501–1507 if, in the judgment of the practitioner or provider, failure to inform the parent or guardian would seriously jeopardize the health of the minor or would seriously limit the practitioner or provider's ability to provide treatment.

32 M.R.S. § 3817 provides that when a psychologist treats a minor for substance use without the consent of the minor's parents or guardian, the psychologist is permitted but is not required to inform the parents or guardian. 32 M.R.S. § 6221 provides that when a drug abuse counselor provides counseling to a minor for substance use without the consent of the minor's parents or guardian, the drug abuse counselor is permitted but is not required to inform the parents or guardian. 32 M.R.S. § 7004 provides that when a social worker provides services to a minor for substance use without the consent of the minor's parents or guardian, the social worker is permitted but is not required to inform the parents or guardian.

Family Planning

22 M.R.S. § 1908 provides that when a minor receives family planning services on their own consent, the health care practitioner is under no obligation to inform the parent or guardian of the prevention or treatment under this section; however, this does not prohibit the health care practitioner rendering the prevention services or treatment from informing the parent or guardian.

Sexually Transmitted Disease/Infection, Sexual Assault, Substance Use

22 M.R.S. § 1823 provides that when a hospital provides treatment to a minor for sexually transmitted disease, sexual assault forensic examination, or substance use without the consent of the minor's parents or guardian, the hospital is not required to notify the parents or guardian unless the hospitalization lasts more than 16 hours. 32 M.R.S. § 3292 provides that when a physician treats a minor for sexually transmitted disease, sexual assault forensic examination, or substance use without obtaining the consent of the minor's parents or guardian, the physician may but is not required to inform the parents or guardian. 32 M.R.S. § 2595 provides that when an osteopathic physician treats a minor for sexually transmitted disease, sexual assault forensic examination, or substance use without the consent of the minor's parents or guardian, the osteopathic physician is permitted but not required to inform the parents or guardian.

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," 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.

Financial Responsibility

22 M.R.S. § 1506 provides that unless the parent or guardian expressly agrees to assume full or partial responsibility, a minor who consents for health care services under 22 M.R.S. §§ 1501–1507 is responsible for the costs of those services. A minor may not be denied benefits for services to which the minor is entitled from a health care practitioner, health care provider, insurer or public agency because the minor has given the consent for those services as provided in 22 M.R.S. §§ 1501–1507.

Gender Affirming Care, Minor Consent

22 M.R.S. § 1508 provides that a minor may give informed consent for gender affirming hormone therapy and follow up care for gender dysphoria only if: "A. The minor is at least 16 years of age; B. The minor has been diagnosed with gender dysphoria by a health care professional; C. In the judgment of the health care professional, the minor is experiencing harm from or is expected to experience harm from not receiving gender-affirming hormone therapy; D. The minor informs the health care professional that the minor has discussed the minor's gender dysphoria with a parent or guardian of the minor and that parent or guardian

refused to support treatment of the minor's gender dysphoria; and E. The minor provides informed written consent to the receipt of gender-affirming hormone therapy in accordance with the requirements of [the statute]; the health care professional makes the written consent that is set forth in a writing containing the information and statements required by [the statute] and that is signed by the minor a part of the minor's health record; and the minor, under all the surrounding circumstances, is mentally and physically competent to give consent." The statute defines "gender-affirming hormone therapy," "gender dysphoria," and "health care professional" for this purpose.

22 M.R.S. § 1508(2) provides that § 1508 "does not affect the legal authority of a parent or guardian to consent to gender-affirming hormone therapy for a minor in accordance with established standards of care."

Gender Affirming Care, Protection

763 M.R.S. § 9001 provides that "access to gender-affirming health care services ... in this State, as authorized under the laws of this State, is a legal right." 763 M.R.S. § 9001 defines "gender-affirming health care services" for this purpose to mean all supplies, care and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventive, rehabilitative or supportive nature, including medication, relating to the treatment of gender dysphoria and gender incongruence in accordance with the accepted standard of care as defined by major medical professional organizations and agencies with expertise in the field of gender-affirming health care, including the Standards of Care for the Health of Transgender and Gender Diverse

People, Version 8, or subsequent version, published by the World Professional Association for Transgender Health. “Gender-affirming health care services” does not include conversion therapy as defined in Title 32, section 59-C, subsection 1.

For up to date information on the status of protections for 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

22 M.R.S. § 1504 provides that a health care practitioner or health care provider who takes reasonable steps to ascertain that a minor is authorized to consent for health treatment as authorized in 22 M.R.S. § 1503 and who subsequently renders treatment in reliance on that consent is not liable for failing to have secured consent of the minor’s parent or guardian prior to providing health care services to the minor.

Reproductive Freedom

14 M.R.S. § 9001 provides that “access to... reproductive health care services in this State, as authorized under the laws of this State, is a legal right.”

22 M.R.S. § 1598 provides in part: “It is the public policy of the State that the State not restrict a woman’s exercise of her private decision to terminate a pregnancy before viability except as provided in section 1597-A... .The State intends to occupy and preempt the entire field of legislation concerning the regulation of a person’s decision to terminate a pregnancy and legislation concerning the provision of abortion. No political subdivision of the State, including, but not limited to, municipalities, counties, townships, plantations and village corporations, may adopt any order, ordinance, rule or regulation concerning the regulation of a person’s decision to terminate a pregnancy or concerning the provision of abortion... .After viability, an abortion may be performed only when it is necessary in the professional judgment of a physician”

Right to Refuse

In *In re Chad Eric Swan*, 569 A.2d 1202 (1990) the Supreme Judicial Court of Maine held that the request of a 17-year-old unemancipated minor to forgo life-sustaining procedures if ever in a vegetative state was valid and should be upheld.

Shield Laws

In 2024, Maine passed L.D. 227, which includes several laws designed to shield Maine health care providers from civil and criminal penalty when they legally provide gender affirming or reproductive health services in the state. The statutes include definitions for these terms. Read more about L.D. 227 and its provisions [here](#).

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

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

Sterilization

34-B M.R.S. § 7004 provides that a minor who is not married or otherwise emancipated may only be sterilized if the minor has given informed consent and a court has determined that the minor has the capacity to give informed consent for the procedure. Minors who are married or emancipated may only be sterilized if they have given informed consent.

Resources

Maine Statutes <https://legislature.maine.gov/statutes/>

Code of Maine Rules <https://www.maine.gov/sos/cec/rules/rules.html>

MARYLAND

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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
- S** Emergency Care
- S** **F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
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- 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

- 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
- S** Minor in State Custody
- Pregnant Minor

Other

- S** Care to Prevent Adverse Health Effects, Minor Consent
- S** "Conversion Therapy," Ban⁴
- S** Emergency Care
- S** Financial Responsibility
- Gender Affirming Care
- S** Good Faith Reliance/Immunity from Liability
- S** Shield Laws

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

Md. Code Ann. Gen. Provis. § 1-401 provides that the age of majority is 18 years.

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. For example, for purposes of the anatomical gift act, *Md. Code Ann., Est. & Trst § 4-501* defines emancipated minor as: “a person under the age of 18 years who is: (1) Married; (2) A parent; (3) Serving in the military; (4) Emancipated by court order; (5) Living separately from the parents of the person and is self-supporting; or (6) Emancipated for another purpose recognized by law.” *Md. Code Ann., R Cts J and Attys Rules 16-307* gives the Family Division of the Circuit Courts

authority to hear cases related to emancipation of minors. For discussion of the criteria for determining on a case-by-case basis whether a minor is emancipated, see *Holly v. Maryland Auto Insurance Fund*, 349 A.2d 670 (Md. Ct. App., 1975). *Md. Code Ann., Fam. Law § 5-2A-05* provides that a married minor shall be deemed emancipated for the limited purpose of obtaining a divorce.

Minor Marriage

Md. Code Ann., Fam. Law § 2-301 specifies that only minors 17 or older may marry and specifies the requirements for a minor age 17 to marry, which include parent or guardian consent, court authorization, and certification by a health care provider that the minor is pregnant or has born a child. *Md. Code Ann., Fam. Law §§ 5-2A-01 – 5-2A-06* specify the criteria and procedures for a minor age 17 to obtain court authorization to marry.

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’s Status**Married Minor**

Md. Code Ann., Health-Gen. § 20-102 provides that a married minor has the same capacity as an adult to consent for medical or dental treatment.

Minor Living Apart from Parent/Guardian

Md. Code Ann., Health-Gen. § 20-102 provides that a minor who is living separate and apart from the minor’s parent, parents, or guardian, whether with or without consent of the minor’s parent, parents, or guardian and is self-supporting, regardless of the source of the minor’s income, has the same capacity as an adult to consent to medical or dental treatment.

Minor Parent

Md. Code Ann., Health-Gen. § 20-102 provides that a minor

parent has the same capacity as an adult to consent for medical or dental treatment.

State Custody

Md. Code Ann., Health-Gen. § 20-102 provides that a minor has the same capacity as an adult to consent for initial medical screening and physical examination on and after admission of the minor into a detention center.

Minor Consent—Services**Abortion**

Abortion is legal and protected in Maryland. *Md. Code Ann., Health-Gen. § 20-209* defines viability and provides that, except as otherwise provided in this subtitle, “the State may not interfere with the decision of a woman to terminate a pregnancy: (1) Before the fetus is viable; or (2) At any time during the woman’s pregnancy, if: (i) The termination

procedure is necessary to protect the life or health of the woman; or (ii) The fetus is affected by genetic defect or serious deformity or abnormality.”

Minors may consent to abortion in Maryland, but *Md. Code Ann., Health-Gen. § 20-103* provides that a “qualified provider” must notify one parent prior to performing an abortion on a minor, subject to specific exceptions. An abortion may be performed without notice if the minor does not live with a parent or guardian; and a reasonable effort to give notice is unsuccessful. Notice is not required if, in the professional judgment of the physician, notice to the parent or guardian may lead to physical or emotional abuse of the minor; the minor is mature and capable of giving informed consent for an abortion; or notification would not be in the best interest of the minor. *Md. Code Ann., Health-Gen. § 20-207* defines a “qualified provider” for this purpose. *For up to date information on parent involvement and judicial bypass in Maryland, find the “under age...” section on your state’s link in [If When How’s Abortion Laws by State](#).*

For a court decision holding that a parent may not compel a minor daughter over the daughter’s opposition to submit to an abortion, see *In re Smith*, 295 A.2d 238 (1972).

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.

Emergency Care

Md. Code Ann., Health-Gen. § 20-102 provides that a minor has the same capacity as an adult to consent for medical treatment if, in the judgment of the attending physician, the life or health of the minor would be affected adversely by delaying treatment to obtain the consent of another individual.

Md. Code Ann., Health-Gen. § 5-607 provides that a health care provider may treat a patient who is incapable of making an informed decision, without consent, if the treatment is of an emergency nature; the person who is authorized to give consent is not available immediately; and the attending physician determines that there is a substantial risk of death or immediate and serious harm to the patient and that the life or health of the patient would be affected adversely by delaying treatment to obtain consent.

Family Planning/Contraceptives

Md. Code Ann., Health-Gen. § 20-102 provides that a minor has the same capacity as an adult to consent for treatment for or advice about contraception other than 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

Md. Code Ann., Health-Gen. § 20-104 provides that a minor who is 12 years old or older who is determined by a licensed health care provider to be mature and capable of giving informed consent has the same capacity as an adult to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by a health care provider or a clinic. The capacity to consent for these services does not include the capacity to: refuse consultation, diagnosis, or treatment for a mental or emotional disorder for which a parent, guardian, or custodian of the minor has given consent; also, except as otherwise provided, if the minor is under the age of 16 years, the capacity does not include consent to the use of prescription medications to treat a mental or emotional disorder. The statute defines “health care provider” for this purpose.

Pregnancy-Related Care

Md. Code Ann., Health-Gen. § 20-102 provides that a minor has the same capacity as an adult to consent for treatment for or advice about pregnancy other than 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.

Sexual Assault Care

Md. Code Ann., Health-Gen. § 20-102 provides that a minor has the same capacity as an adult to consent for physical examination and treatment of injuries from an “alleged rape or sexual offense” and a physical examination to obtain evidence of an alleged rape or sexual offense.

Sexually Transmitted Infection/Disease/HIV Care

Md. Code Ann., Health-Gen. § 20-102 provides that a minor has the same capacity as an adult to consent for treatment for or advice about “venereal disease.”

Md. Code Ann., Health-Gen. § 20-102 provides that a minor has the same capacity as an adult to consent for treatment for the prevention of human immunodeficiency virus (HIV).

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

Md. Code Ann., Health-Gen. § 20-102 provides that a minor has the same capacity as an adult to consent for medical treatment for or advice about “drug abuse” or “alcoholism.” The minor may also consent for psychological treatment if, in the judgment of the attending physician or psychologist, the life or health of the minor would be adversely affected by delaying treatment to obtain the consent of another individual. This does not include the capacity to refuse treatment for drug abuse or alcoholism in an inpatient or intensive outpatient treatment program for which a parent or guardian has given consent.

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

Medical Records

Md. Code Ann., Health-Gen. §§ 4-301 – 310 provide for the confidentiality of medical records. *Md. Code Ann., Health-Gen. § 4-301* provides that a minor who has the right to consent and has consented is considered a “person in interest” who may exercise the rights set forth in the statutory requirements regarding confidentiality and disclosure of medical and mental health records contained in *Md. Code Ann., Health-Gen. §§ 4-301 through 4-309*. These rights include the right of access to the record and the right to authorize disclosure of records, if the medical record concerns treatment for which the minor has the right to consent and has consented under *Md. Code Ann., Health-Gen. §§ 20-101–20-106*.

Mental Health

Md. Code Ann., Health-Gen. § 4-307 contains specific provisions related to the disclosure of mental health records.

Sensitive Services/Abortion

Md. Code Ann., Health-Gen. § 4-302.5 provides special protections for disclosures of information about abortion care and other sensitive services, including other reproductive health services, as determined by the Secretary of the Maryland Department of Health, including disclosures to recipients in and outside Maryland.

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

Minor Consent Services under § 20-102

Md. Code Ann., Health-Gen. § 20-102 provides that without the consent of or over the objection of a minor, a licensed health care practitioner is permitted but not required to give a parent, guardian, custodian, or spouse of the parent information about treatment needed by a minor or provided

to the minor for which the minor may consent under § 20-102, except information about abortion.

Mental Health

Md. Code Ann., Health-Gen. § 20-104 provides that without the consent of or over the objection of the minor, the health care provider or, on advice or direction of the health care provider, a member of the medical staff of a hospital or public clinic is permitted but not required to give a parent, guardian, custodian, or spouse of the parent information about treatment needed by a minor or provided to the minor for a mental or emotional disorder for which the minor may consent unless the health care provider believes that the disclosure will lead to harm to the minor or deter the minor from seeking care. If the health care provider is part of a treatment team headed by a physician, the physician should make the decision about whether the information should be given.

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

Md. Code Ann. Insurance § 15-141 required the Insurance Commissioner develop and make available a standardized form for an insurance "enrollee" to use to request confidential communications from a carrier (including a nonprofit health service plan; a health maintenance organization; a dental plan organization; or any other person that provides health benefit plans subject to regulation by the State) in accordance with 45 C.F.R. § 164.522(b). *Md. Code Ann. Insurance § 15-141* provides that a carrier that requires an enrollee to make a request for confidential communications in writing in accordance with 45 C.F.R. § 164.522(b) shall accept the standardized form developed by the Commissioner under this section for that purpose; and that § 15-141 may not be construed to limit acceptance by a carrier of any other form of written request from an enrollee for confidential communications from a carrier under 45 C.F.R. § 164.522(b). The statute defines "enrollee" as a person entitled to health care benefits from a carrier.

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.

Care to Prevent a Health Hazard, Minor Consent

Md. Code Ann., Health-Gen. § 20-102 provides that a minor has the same capacity as an adult to consent for medical treatment if, in the judgment of the attending physician, the life or health of the minor would be affected adversely by delaying treatment to obtain the consent of another individual.

"Conversion Therapy," Ban

For up to date information on the status of statutes or case law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors in all

50 states and DC, see [Movement Advancement Project's "Equality Maps: Conversion "Therapy" Laws."](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

Md. Code Ann., Health-Gen. § 5-607 provides that a health care provider may treat a patient who is incapable of making an informed decision, without consent, if the treatment is of an emergency nature; the person who is authorized to give consent is not available immediately; and the attending physician determines that there is a substantial risk of death or immediate and serious harm to

the patient and that the life or health of the patient would be affected adversely by delaying treatment to obtain consent.

Financial Responsibility

Md. Code Ann., Health-Gen. § 20-104 provides that a parent, guardian, custodian, or spouse of the parent is not responsible for the costs of consultation, diagnosis, or treatment for a mental or emotional condition, for which a minor may consent, unless the parent, guardian, custodian, or spouse of a parent has consented to the care.

Gender Affirming Care

There are no restrictions on gender affirming care in Maryland at this time.

For up to date information on the status of protections for 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

Md. Code Ann., Health-Gen. § 20-102 provides that a licensed health care practitioner who treats a minor is

not liable for civil damages or subject to any criminal or disciplinary penalty solely because the minor did not have capacity to consent under § 20-102.

Shield Laws

Maryland passed several laws in 2023, including SB 859, the "Reproductive Health Protection Act" and SB 786, designed to protect delivery of "legally protected health care" and shield Maryland health care providers from civil and criminal penalty when they legally provide reproductive health services in the state. These statutes include definitions for key terms. Read more about SB 859 and its provisions here. Read SB 786 here.

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

For up to date information on shield laws related to gender affirming care, see [Movement Advancement Project's "Transgender Health Care Shield Laws."](#)

Resources

Maryland Statutes <https://mgaleg.maryland.gov/mgawebsite/Laws/Statutes>

Maryland Code of Regulations https://elections.maryland.gov/laws_and_regs/regulations.html

MASSACHUSETTS

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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
- S** Reportable, Communicable, Infectious Disease Care
- 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
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Minor Consent to Health Care—Minor's Status

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

Other

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

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

Mass. Gen. Laws ch. 4, § 7 and ch. 231, § 85P provide 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 acknowledge emancipation for specific purposes. For example, *Mass. Gen. Laws ch. 113A, § 4* authorizes an emancipated minor to donate organs, and *Mass. Gen. Laws ch. 90, § 32G1/2* authorizes emancipated minors to participate in certain advanced driver training without need of parent consent.

For additional information, see Massachusetts Law Reform Institute, *Emancipation and Your Legal Rights as a Minor* (2023), available at <https://www.masslegalhelp.org/children-families-divorce/youth-rights>

Minor Marriage

Mass. Gen. Laws ch. 207 §§ 7 & 24, effective July 1, 2022, provide that a minor is not eligible to marry in Massachusetts.

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's Status**Emancipated Minor**

In *In re Rena*, 46 Mass. App. Ct. 335, 705 N.E.2d 1155 (1999), the Court acknowledged that "[a]n emancipated minor may consent to his or her own medical treatment, excluding an abortion or sterilization, and a minor who is married, divorced, or widowed may likewise consent to his or her medical treatment, including an abortion or sterilization." 46 Mass. App. at 337 ft. 3, citing *Mass. Gen. L. c. 112, § 12F*.

Married Minor

Mass. Gen. Laws ch. 112, § 12F provides that minors may give consent for their medical or dental care if they are married, widowed, or divorced.

Minor, Age or Maturity

In *Baird v. Attorney General*, 360 N.E.2d 288 (1977) the Supreme Judicial Court explained that "the mature minor rule calls for an analysis of the nature of the operation, its likely benefit, and the capacity of the particular minor to

understand fully what the medical procedure involves" (360 N.E.2d at 295) and concluded that "apart from statutory limitations which are constitutional, where the best interests of a minor will be served by not notifying his or her parents of intended medical treatment and where the minor is capable of giving informed consent to that treatment, the mature minor rule applies in this Commonwealth." 360 N.E.2d at 295. *Consultation with counsel is essential to determine the scope of application for this common law rule and how it intersects with statutory law.*

Minor in Armed Forces

Mass. Ann. Laws ch. 112, § 12F provides that minors may give consent for their medical or dental care if they are a member of any of the armed forces. This section does not authorize a minor to consent for abortion or sterilization.

Minor Living Apart from Parent/Guardian

Mass. Gen. Laws ch. 112, § 12F provides that minors may give consent for their medical or dental care if they are living separate and apart from their parent or guardian and

managing their own financial affairs. This section does not authorize a minor to consent for abortion or sterilization.

Minor Parent

Mass. Gen. Laws ch. 112, § 12F provides that minors may give consent for their medical or dental care if they are a parent. This section does not authorize a minor to consent for abortion or sterilization.

Pregnant Minor

Mass. Gen. Laws ch. 112, § 12F provides that minors may give consent for their medical or dental care if they are pregnant or believe themselves to be pregnant. This section does not authorize a minor to consent for abortion or sterilization.

Minor Consent—Services

Abortion

Abortion is legal and protected in Massachusetts. The Massachusetts Supreme Judicial Court held, in *Moe v. Sec’y of Admin. & Fin.*, 382 Mass. 629, 645-648, 417 N.E.2d 387, 397-99 (Mass. 1981), that abortion is protected under the Massachusetts Constitution.

Mass. Gen. Laws ch. 112, § 12L, enacted in 2020, provides: “The commonwealth, or a subdivision thereof, shall not interfere with a person’s personal decision and ability to prevent, commence, terminate or continue their own pregnancy consistent with this chapter, or restrict the use of medically appropriate methods of abortion or the manner in which medically appropriate abortion is provided.”

Minors may consent to abortion, but *Mass. Gen. Laws ch. 112, §§ 12R and 12P* provide that no physician may perform an abortion upon an unmarried minor under the age of 16 without her written informed consent and the consent of one parent or guardian. The law includes a judicial bypass and an emergency exception. *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

Mass. Gen. Laws ch. 112, § 12L, enacted in 2020, provides: “The commonwealth, or a subdivision thereof, shall not interfere with a person’s personal decision and ability to prevent, commence, terminate or continue their own pregnancy consistent with this chapter, or restrict the use of medically appropriate methods of abortion or the manner in which medically appropriate abortion is provided.”

Mass. Gen. Laws ch. 111, § 24E provides that the Department of Public Health shall establish a program for comprehensive family planning services, including medical, educational, and social services that assists individuals of childbearing age, including sexually active minors, and that services will be offered without regard to age. This provision relates to agencies operating under Title X of the Public Health Services Act, 42 U.S.C. §§ 300 et seq. or comprehensive family planning agencies as defined by the Department of Public Welfare. No general provision expressly authorizes minors to consent for contraceptive care or family planning 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

Mass. Gen. Laws ch. 123, § 10 provides that the “superintendent” or other head of a public or private facility may provide voluntary outpatient treatment to any person age 16 or older who is in need of care and treatment based upon the individual’s own application. A parent or guardian may apply on behalf of any minor. The superintendent may, in the best interest of the patient, discontinue treatment at any time.

Pregnancy-Related Care

Mass. Gen. Laws ch. 112, § 12F provides that minors may give consent for their medical or dental care if they are pregnant or believe themselves to be pregnant.

Mass. Gen. Laws ch. 112, § 12F also provides that minors may give consent for sterilization if they are married, widowed, or divorced. For minors who are authorized to consent for their own health care because they are a parent, a member of the armed forces, pregnant or believe themselves to be pregnant, are living separate from parents or legal guardian, or reasonably believes themselves to be suffering from a dangerous disease, the authority to consent does not include 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

Mass. Gen. Laws ch. 112, § 12F provides that minors may give consent to their medical or dental care at the time such care is sought if they reasonably believe themselves to be at risk of exposure due to sexual activity or to be suffering from or to have come in contact with any disease defined as dangerous to the public health pursuant to *Mass. Gen. Laws ch. 111, § 6*. The authority to consent is limited to care that relates to the diagnosis or treatment of such disease, or prevention of HIV if the minor is sexually active. This section does not authorize a minor to consent for abortion or sterilization.

Sexually Transmitted Infection/Disease/HIV Care

Mass. Gen. Laws ch. 112, § 12F provides that minors may give consent to their medical or dental care if they reasonably believe themselves to be at risk of exposure or to be suffering from or to have come in contact with any disease defined as dangerous to the public health by the Department under *Mass. Ann. Laws ch. 111, § 6*. The ability to consent is limited to care that relates to the diagnosis or treatment of such disease, or prevention of HIV if the minor is sexually active. This section does not authorize a minor to consent for abortion or sterilization.

Mass. Gen. Laws ch. 111, § 117 provides that the Department of Public Health shall establish and maintain clinics for providing prevention of HIV or treatment for persons suffering from “venereal diseases” and that physical examination and treatment by a registered physician or surgeon of a minor patient who voluntarily requests the care is not considered assault or battery.

Mass. Regs. Code tit. 105, § 300.180 includes AIDS and HIV on the list of diseases declared dangerous and reportable to the Department of Public Health.

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

Mass. Gen. Laws ch. 112, § 12E provides that a minor age 12 or older who is found to be “drug dependent” by two physicians may consent for hospital and medical care related to the diagnosis or treatment of drug dependency and the consent of a parent or guardian is not necessary. This section does not apply to methadone maintenance therapy.

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

Consent for Release

Mass. Gen. Laws ch. 112, § 12F provides that all information and records of care given under § 12F (pertaining to care for minors who are married, divorced, widowed, a parent, a member of the armed forces, pregnant, believes herself to be pregnant, living “separate and apart,” or reasonably believes himself or herself to be at risk of exposure to or to be suffering from or to have come into contact

with a disease dangerous to the public health) shall be confidential between the minor and the physician or dentist, and shall not be released except upon the written consent of the minor or a proper judicial order. If the physician or dentist reasonably believes the minor’s condition is so serious that it endangers the minor’s life or limb, the physician or dentist is required to notify the parents or guardian of the condition and inform the minor of the parental notification.

Mass. Gen. Laws ch. 111, § 24E provides that information regarding a recipient of family planning services under the comprehensive family planning services program of the state's Department of Public Health may not be disclosed without the recipient's consent, except as required by law or as necessary to provide the services.

See **Appendix H** for information about minors' rights under the HIPAA Privacy Rule to access their own health records when they are authorized to consent for 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

Minor Consent Services under §§ 12E and 12F

Mass. Gen. Laws ch. 112, § 12F provides that all information and records of care given under § 12F (pertaining to care for minors who are married, divorced, widowed, a parent, a member of the armed forces, pregnant, believes herself to be pregnant, living "separate and apart," or reasonably believes himself or herself to be at risk of exposure to or to be suffering from or to have come into contact with a disease dangerous to the public health) shall be confidential between the minor and the physician or dentist, and shall not be released except upon the written consent of the minor or a proper judicial order. If the physician or dentist reasonably believes the minor's condition is so serious that it endangers the minor's life or limb, the physician or dentist is required to notify the parents or guardian of the condition and inform the minor of the parental notification.

104 CMR 25.03 provides that throughout 104 CMR, there are instances where the rights of emancipated or mature minors may be relevant. 104 CMR does not attempt to identify them. However, where, by operation of law pursuant to Mass. Gen. Laws ch. 112, §§ 12E or 12F, a minor is an emancipated minor entitled to consent to drug or medical or dental treatment and has the capacity to do so, he or she shall be entitled to consent in the same manner as an adult. Further, a facility or program may determine, pursuant to

applicable Massachusetts law, that a minor is a mature minor and is therefore able to provide consent to treatment and may decide, in certain circumstances, not to notify the parents.

Substance Use

Mass. Gen. Laws ch. 112, § 12E ½ provides that the "department of public health shall produce a pamphlet with contact information for its bureau of substance addiction services, including its telephone helpline number, and with information on the benefits and availability of addiction treatment and on the prevention of overdoses. A physician, nurse practitioner or hospital that treats a person under 18 years of age for a drug or alcohol overdose, as defined by regulations of the department, shall: (i) notify the minor's parent, legal guardian or other person having custody or control of a minor child of the overdose as part of the discharge planning process; (ii) provide the pamphlet to the parent, legal guardian or other person having custody or control of a minor child and to the minor child; and (iii) provide access to a social worker, if available. The department shall promulgate regulations to ensure that the notification provisions of this section are applied in a manner consistent with the federal Health Insurance Portability and Accountability Act."

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

Mass. Gen. Laws ch. 1760 § 27, the "Act to Protect Access to Confidential Healthcare" (PATCH Act), addresses issues of access to and disclosure of health information in the health insurance claims process and contains detailed requirements

regarding the rights of “health care consumers” (including patients) and the obligations of health insurance carriers.

The statute provides that all “carriers” in Massachusetts are required to issue a common “summary of payments form” developed by the Division of Insurance, to each insured member at the member level. Carriers shall not specify or describe sensitive health care services in a common summary of payments form. [Massachusetts Division of Insurance Bulletin 2017-07](#), lists 18 services that are defined as “sensitive health care services” that must be suppressed from being identified on all Summary of Payments issued under *Mass. Gen. Laws ch. 1760 § 12*.

The statute also provides that all carriers shall permit the following individuals to choose, in writing, an alternative method of receiving the common summary of payments form: (i) a subscriber who is legally authorized to consent to care for the insured member; (ii) an insured member who is legally authorized to consent to that member’s own care; or (iii) another party who has the exclusive legal authorization to consent to care for the insured member. The alternative methods of receiving the common summary of payments form include, but are not limited to: sending a paper form to a specified address or allowing the subscriber, the insured member, or both to access the form through electronic means; provided, however, that such access is provided in

compliance with any applicable state and federal laws and regulations pertaining to data privacy and security.

The statute also provides that if the insured member has no liability for payment for any procedure or service, carriers shall permit all insured members who are legally authorized to consent to care, or parties legally authorized to consent to care for the insured member, to request suppression of common summary of payments forms for a specific service or procedure, in which case the common summary of payments forms shall not be issued; provided, however, that the insured member clearly makes the request orally or in writing. A carrier shall not require an explanation as to the basis for an insured member’s request to suppress the common summary of payments forms, unless otherwise required by law or court order.

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

The Massachusetts Supreme Judicial Court held, in *Moe v. Sec’y of Admin. & Fin.*, 382 Mass. 629, 645-648, 417 N.E.2d 387, 397-99 (Mass. 1981) that abortion is protected under the Massachusetts Constitution.

“Conversion Therapy” Ban

For up to date information on the status of statutes or case law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors in all 50 states and DC, see [Movement Advancement Project’s “Equality Maps: Conversion “Therapy” Laws.”](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

Mass. Gen. Laws ch. 112, § 12F provides that health care providers, as defined in *Mass. Gen. Laws ch. 111, §1*, are not

liable for damages for failure to obtain consent of a parent or guardian to emergency examination and treatment, including blood transfusions, when delay will endanger the life, limb, or mental well-being of the minor patient.

Financial Responsibility

Mass. Gen. Laws ch. 112, § 12F provides that a parent or legal guardian shall not be liable for the payment for any care rendered pursuant to § 12F (pertaining to care for minors who are married, divorced, widowed, a parent, pregnant, believes herself to be pregnant, living “separate and apart,” or reasonably believes himself or herself to be at risk of exposure to or to be suffering from or to have come into contact with a disease dangerous to the public health) unless such parent or legal guardian has expressly agreed to pay for such care.

Gender Affirming Care

There are no restrictions on gender affirming care in Massachusetts at this time.

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

Mass. Gen. Laws ch. 112, § 12F provides that a physician, dentist, hospital, clinic, or infirmary is entitled to rely in good faith upon minors' representations that they are legally able to consent for the care provided or upon a minors' representations that they are age 18 or older.

Minor Parent, Consent for Child's Care

Mass. Gen. Laws ch. 112, § 12F provides that minor parents may consent for medical or dental care for their child. This section does not authorize a minor to consent for abortion or sterilization.

Shield Laws

In 2022, Massachusetts enacted 2022 Mass. Acts 127, "An Act Expanding Protections for Reproductive and Gender Affirming Care," which includes protections designed to shield health care providers when they legally provide "legally protected health care activity" including "gender-affirming health care services" and "reproductive health care services" and protect patients who receive these services. Mass. Gen. Laws ch. 9A, § 1 defines these terms. Read the Act [here](#).

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

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

Resources

Massachusetts Statutes <https://malegislature.gov/Laws/GeneralLaws>

Code of Massachusetts Regulations <https://www.mass.gov/code-of-massachusetts-regulations-cmr>

MICHIGAN

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- S** Care in Certain Settings, Limits
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- S** Emergency Care
- S** Financial Responsibility
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- S** Minor Parent, Consent for Child
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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

Mich. Comp. Laws Ann. § 722.52 provides that the age of majority is 18.

Emancipation

Mich. Comp. Laws Ann. §§ 722.4 – 722.4e set forth the requirements and procedures for emancipation of minors by operation of law or by a court order. Minors are emancipated by a court order pursuant to a petition filed by the minor or by operation of law when legally emancipated by the laws of another state, when on active duty with the U.S. Armed Forces, and for limited purposes when in the custody of law enforcement or a prisoner or probationer under the jurisdiction of the Department of Corrections. *Mich. Comp. Laws Ann. § 722.4e* provides: “A minor

emancipated by operation of law or by court order has the rights and responsibilities of an adult, except for those specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, and other health and safety regulations relevant to him or her because of his or her age” and specifies a list of rights of emancipated minors.

Minor Marriage

Mich. Comp. Laws Ann. § 551.103 provides that as of September 19, 2023 a person must be age 18 or older to marry. *Mich. Comp. Laws Ann. § 551.251* provides that minors who were legally married prior to September 19, 2023, the effective date of the amendment, were released from parental control. Before *§ 551.103* was amended, married minors were considered emancipated.

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’s Status**Emancipated Minor**

Mich. Comp. Laws Ann. § 722.4e provides that emancipated minors have the right to authorize their own preventive health, medical, dental, and mental health care.

Married Minor

Mich. Comp. Laws Ann. § 551.251 provides that minors who were legally married prior to September 19, 2023, were released from parental control. Before *§ 551.103* was amended, married minors were considered emancipated with the right to authorize their own preventive health, medical, dental, and mental health care.

Minor in Armed Forces

Mich. Comp. Laws Ann. § 722.4 provides that minors are considered emancipated while on active duty with the U.S. Armed Forces and may therefore authorize their own preventive health, medical, dental, and mental health care.

Minor in State Custody

Mich. Comp. Laws Ann. § 722.4 provides that minors who are in the custody of a law enforcement agency are considered emancipated for the purposes of consenting to certain types of health care if their parent or guardian cannot be promptly located; services the minor can consent to are routine, nonsurgical medical care, or emergency medical treatment.

Mich. Comp. Laws Ann. § 722.4 also provides that a minor who is a prisoner in the custody of the Department of Corrections or a probationer residing in a special alternative incarceration unit is considered emancipated for the purpose of consenting to preventive health care or medical care including surgery, dental care, or mental health care, except vasectomies or any procedure related to reproduction, if a parent or guardian cannot be promptly located. The emancipated status ends when the medical care ends or when the minor is released from custody, whichever occurs first.

Minor Consent—Services

Abortion

Abortion is legal and protected in Michigan. *Article 1, Section 28* of the Michigan Constitution, added on November 8, 2022, provides: “Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.”

Mich. Comp. Laws Ann. § 333.26103 incorporates the provisions of *Article 1, Section 28* into Michigan statute. For up to date information on the status of abortion protections and restrictions in Michigan, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

Minors may obtain an abortion, but *Mich. Comp. Laws Ann. §§ 722.901 through 722.908* provide that a person shall not perform an abortion on an unemancipated minor without first obtaining the written consent of the minor and one parent or guardian. The law includes a judicial bypass, a medical emergency exception, and special provisions related to sexual abuse. 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](#).

In 2001 *Mich. Op. Att’y Gen. 7077*, the Michigan Attorney General determined that the use of mifepristone to terminate a pregnancy constitutes an abortion for purposes of the parental consent law.

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 consent for family planning services or contraceptive care. In 1980, the Sixth Circuit Court of Appeals ruled in *Doe v. Irwin*, 615 F.2d 1162, 1169 (6th Cir. 1980) that the distribution of contraceptives to minors without notice to parents by a family planning center under contract with the Michigan Department of Public Health did not infringe the constitutional rights of parents.

In 1993, the Michigan Attorney General confirmed that provision of contraceptives to minors without parental consent or notification in Title X funded sites reflected current law at that time. Letter from Stanley D. Steinhorn, Assistant Attorney General of Michigan, to Hon. John Pridnia, State Senator, Michigan Legislature, RE: Providing Contraceptives to Minors – Parental Notification/ Consent,” October 4, 1993.

Article 1, Section 28 of the Michigan Constitution, added on November 8, 2022, provides: “Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.” *Mich. Comp. Laws Ann. § 333.26103* incorporates the provisions of *Article 1, Section 28* into Michigan statute. How implementation of *Article 1, Section 28* and *Mich. Comp. Laws Ann. § 333.26103* will affect consent to specific health services for minors remains to be determined.

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

Mich. Comp. Laws Ann. § 330.1707 provides that a minor age 14 or older may request and receive mental health services on an outpatient basis, excluding pregnancy termination referral services and the use of psychotropic drugs. A mental health professional may provide these services without the consent or knowledge of the minor’s parent or guardian. Services under this section are limited to 12 sessions or 4 months per request for services. After this point, the mental health professional shall terminate the services or, with the minor’s consent, notify the parent or guardian to obtain consent to provide further services.

Pregnancy-Related Care

Mich. Comp. Laws Ann. § 333.9132 provides that a minor may consent to prenatal and pregnancy related health care and the consent of no other person is required. As used in this section, “health care” means only treatment or services intended to maintain the life and improve the health of both the minor and the minor’s child or fetus.

Article 1, Section 28 of the Michigan Constitution, added on November 8, 2022, provides: “Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.”

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

Mich. Comp. Laws Ann. § 333.21527 provides that if an individual alleges to a physician or other member of the attending or admitting staff that within the preceding 120 hours the individual has been the victim of criminal

sexual misconduct, the attending health care personnel responsible for examining or treating the individual immediately shall inform the individual of the availability of a sexual assault evidence kit and, with the consent of the individual, shall perform the procedures required by the sexual assault evidence kit. For the purposes of this section, the administration of a sexual assault evidence kit is not a medical procedure.

Sexually Transmitted Infection/Disease/HIV Care

Mich. Comp. Laws Ann. §§ 333.5127 provides that consent to the provision of medical or surgical care, treatment, or services by a hospital, clinic, or physician executed by a minor who is or professes to be infected with a sexually transmitted infection or HIV is valid and binding as if the minor had achieved the age of majority.

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

Mich. Comp. Laws Ann. § 330.1264 provides that a minor who is or professes to be an individual with a substance

use disorder may give a valid and binding consent for “substance use disorder related medical or surgical care,” treatment, or services by a hospital, clinic, or health professional and the consent of any other person, including a parent or guardian, is not necessary to authorize the services.

Mich. Comp. Laws Ann. § 330.1265 provides that a “program” may perform substance use disorder treatment and rehabilitation services when requested by the parent or a person in loco parentis to a minor without the minor’s consent if the minor is less than 14 years. If the minor does not consent, *Mich. Comp. Laws Ann. §§ 330.1265 – 1268* contain detailed procedures for determining whether the services are necessary and may be provided over the objection of the minor. *Mich. Comp. Laws Ann. § 330.1265* provides that psychotropic drugs may not be used on a minor unless the minor consents or the court orders the use of drugs at a hearing.

“Program,” for this purpose, is defined as a hospital, clinic, organization, or health professional licensed to provide substance use disorder services.

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

Mich. Comp. Laws Ann. §§ 333.26261 – 333.26271 comprise the Medical Records Access Act. *Mich. Comp. Laws Ann. § 333.26265* provides that except as otherwise provided by law or regulation, a patient or the patient’s

authorized representative has the right to examine or obtain the patient’s medical record.

Mich. Comp. Laws Ann. § 333.26263 provides that “patient” for this purpose means an individual who receives or has

received health care from a health care provider or health facility and that “patient” includes a guardian, if appointed, and a parent, guardian, or person acting in loco parentis, if the individual is a minor, unless the minor lawfully obtained health care without the consent or notification of a parent, guardian, or other person acting in loco parentis, in which case the minor has the exclusive right to exercise the rights of a patient under this act with respect to medical records relating to that care.

Mich. Comp. Laws Ann. § 333.26265 provides that where a parent or guardian has a right to examine or obtain a minor’s record, if the health care provider or health facility determines that disclosure of the requested medical record to the minor’s guardian or parent is likely to have an adverse effect on the patient, the health care provider or health facility shall provide a clear statement supporting that determination and provides the medical record to another health care provider, health facility, or legal counsel designated by the patient or their authorized representative.

See **Appendix H** for information about minors’ rights under the HIPAA Privacy Rule to access their own health records when they are authorized to consent for 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

Emancipated Minors

Mich. Comp. Laws Ann. § 722.4e provides that emancipated minors have the right to authorize their own preventive health, medical, dental, and mental health care without parental knowledge.

Mental Health

Mich. Comp. Laws Ann. § 330.1707 provides that when a minor age 14 or older receives mental health services on an outpatient basis, the minor’s parent or guardian shall not be informed of the services without the minor’s consent, unless the mental health professional determines that a “compelling need for disclosure exists based on a

substantial probability of harm to the minor or other persons, and if the minor is notified of the mental health professional’s intent to inform the minor’s parent, guardian, or person in loco parentis.”

Mich. Comp. Laws Ann. § 330.1707 also requires that “[s]ervices provided to a minor under this section shall, to the extent possible, promote the minor’s relationship to the parent, guardian, or person *in loco parentis*, and shall not undermine the values that the parent, guardian, or person *in loco parentis* has sought to instill in the minor.”

Pregnancy-Related Care

Mich. Comp. Laws Ann. § 333.9132 provides that before providing prenatal and pregnancy related health care to a minor or health care to a minor’s child, a health facility or agency or a health professional shall inform the minor that the putative father of the child or the minor’s spouse, parent, guardian, or person *in loco parentis* may be notified for medical reasons at the discretion of the provider. For medical reasons, the treating physician, and on the advice and direction of the treating physician, a member of the medical staff of a health facility or agency or other health professional may, but is not obligated to, inform the putative father of the child or the spouse, parent, guardian, or person *in loco parentis* as to the health care given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information. At the initial visit to the health facility or health professional, permission shall be requested of the minor to contact the minor’s parents for any additional medical information which may be necessary or helpful to the provision of proper health care.

Sexually Transmitted Infection/HIV

Mich. Comp. Laws Ann. § 333.5127 provides that when a minor consents for medical or surgical care or treatment for a sexually transmitted infection or HIV, for medical reasons, the health care provider is permitted but not required to inform the spouse, parent or guardian of the treatment given or needed. The information may be given to or withheld from these persons without the minor’s consent and even over the express refusal of the minor.

Substance Use Disorder

Mich. Comp. Laws Ann. § 330.1264 provides that when a minor consents for substance use disorder related medical or surgical care, treatment, or services by a hospital, clinic, or health professional, for medical reasons “the treating physician, and, on the advice and direction of the treating physician, a member of the medical staff of a hospital or clinic or other health professional, may, but is not obligated to, inform the spouse, parent, guardian, or person in loco parentis as to the treatment given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the 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 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.

Care in Certain Settings, Limits

Mich. Comp. Laws Ann. § 380.1507(7) provides that family planning drugs or devices may not be dispensed or distributed in a public school or on public school property.

"Conversion Therapy" Ban

For up to date information on the status of statutes or case law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors in all 50 states and DC, see [Movement Advancement Project's "Equality Maps: Conversion "Therapy" Laws."](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

For discussion of implied consent in cases of emergency, see *Franklyn v. Peabody*, 249 Mich 363 (1930), *Banks v. Wittenberg*, 82 Mich App 274 (1978).

Financial Responsibility

Mich. Comp. Laws Ann. § 722.4e provides that emancipated minors have the right to authorize their own preventive health, medical, dental, and mental health care without parental liability.

Mich. Comp. Laws Ann. § 333.5127 provides that when a minor consents for medical or surgical care or treatment for a sexually transmitted infection or HIV, a spouse, parent, guardian, or person *in loco parentis* of a minor is not financially responsible for surgical care, treatment, or services provided.

Mich. Comp. Laws Ann. § 722.4(d) provides that when a minor consents to routine, nonsurgical medical care or emergency medical treatment while in the custody of a law enforcement agency, the minor or the minor's parent remain responsible for the cost of any medical care or treatment.

Mich. Comp. Laws Ann. § 330.1264 provides that when a minor consents for substance use disorder related medical or surgical care, treatment, or services by a hospital, clinic, or health professional, a spouse, parent, guardian, or person *in loco parentis* of a minor is not legally responsible for the services provided.

Mich. Comp. Laws Ann. § 330.1707 provides that when a minor age 14 or older requests and receives mental health services on an outpatient basis without the consent of the minor's parent or guardian, the parent or guardian is not liable for costs of treatment.

Gender Affirming Care

There are no restrictions on access to gender affirming care in Michigan law as of May 2024.

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.

Minor Parent, Consent for Child's Care

Mich. Comp. Laws Ann. § 330.9132 provides that if a minor consents to the provision of health care for a child of the minor, the consent shall be valid and binding as if the minor had achieved majority.

Reproductive Freedom

Article 1, Section 28 of the Michigan Constitution provides: "Every individual has a fundamental right to reproductive freedom, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including but not limited to prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care." *Mich. Comp. Laws Ann. § 333.26103* incorporates the provisions of *Article 1, Section 28* into Michigan statute.

Shield Laws

Both *Article 1, Section 28* of the Michigan Constitution and *Mich. Comp. Laws Ann. § 333.26103* provide: "The state shall not penalize, prosecute, or otherwise take adverse action against an individual based on their actual, potential, perceived, or alleged pregnancy outcomes, including but not limited to miscarriage, stillbirth, or abortion. Nor shall the state penalize, prosecute, or otherwise take adverse action against someone for aiding or assisting a pregnant individual in exercising their right to reproductive freedom with their voluntary consent."

Resources

Michigan Statutes <https://www.legislature.mi.gov/>

Michigan Administrative Rules <https://www.michigan.gov/lara/bureau-list/moahr/admin-rules>

MINNESOTA

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- S Minor Parent
- Minor in State Custody
- Pregnant Minor

Other

- S Constitution
- S "Conversion Therapy," Ban⁴
- S Emergency Care
- S Financial Responsibility
- S Gender Affirming Care, Protection
- S Good Faith Reliance/Immunity from Liability
- S Hepatitis B Vaccination, Minor Consent
- S Minor Parent, Consent for Child's Care
- S Reproductive Freedom
- S Shield Laws
- S Tuberculosis Screening

Key

State law found⁵

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

Minn. Stat. Ann. §§ 645.45 and 645.452 provide 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 acknowledge emancipation for specific purposes. For example, in a statute addressing restraining orders for harassment, *Minn. Stat. Ann. § 609.748* provides that: "A minor demonstrates the minor is emancipated by a showing that the minor is living separate and apart from parents and managing the minor's own financial affairs, and shows, through an instrument in writing or other agreement, or by the conduct of the parties that all parents who have a legal parent and child

relationship with the minor have relinquished control and authority over the minor." And *Minn. Stat. Ann. § 121A.15*, a statute referencing immunization standards for secondary schools, acknowledges the authority of emancipated minors to refuse vaccination in some situations.

Minor Marriage

Effective August 1, 2020, *Minn. Stat. Ann. § 517.03* prohibits "civil marriage entered into between persons when both have not attained the full age of 18 years." *Minn. Stat. Ann. § 517.03* also provides that a civil marriage in which one or both parties are minors "that is recognized by another state or foreign jurisdiction under common law or statute, is void and against the public policy of this state unless neither party was a resident of [Minnesota] at the time the marriage was entered into."

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's Status**Married Minor**

Minn. Stat. Ann. § 144.342 provides that any minor who has been married may consent for personal medical, mental, dental, and other health services. The consent of no other person is required.

Living Apart from Parent/Guardian

Minn. Stat. Ann. § 144.341 provides that notwithstanding any other law, minors who are living separate and apart from parents or guardian, with or without their consent and regardless of the duration of separation, and who are managing their own financial affairs regardless of the source or extent of the minors' income may consent for personal medical, dental, mental, or other health services. The consent of no other person is required.

Minor Parent

Minn. Stat. Ann. § 144.342 provides that any minor who has borne a child may consent for personal medical, mental, dental, and other health services. The consent of no other person is required.

Minor Consent - Services**Abortion**

Abortion is legal and protected in Minnesota. *Minn. Stat. Ann. § 145.409*, the Protect Reproductive Options Act, provides that every individual who becomes pregnant has a fundamental right to obtain an abortion and to make autonomous decisions about how to exercise this fundamental right.

Minors may consent to abortion and neither parental notice or consent is required. In *Doe v. Minnesota*, No. 62-CV-19-3868, 2022 WL 2662998 (Minn. Dist. Ct. July 11, 2022), a state district court held that the parental involvement requirements in Minn. Stat. Ann. § 144.343 are unconstitutional and issued an injunction prohibiting their enforcement.

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

Minn. Stat. Ann. § 145.409, the Protect Reproductive Options Act, provides that every individual has the fundamental right to use or refuse reproductive health care, including care for the purpose of preventing pregnancy. The statute defines “reproductive health care” for this purpose.

The consent of no other person is required. In *Op. Att’y Gen. 494-b-39, August 25, 1972*, Minnesota Attorney General stated that the practice of giving contraceptives to minors without parental consent by physicians is not criminal conduct.

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.*

Outpatient Mental Health Care

Minn. Stat. Ann. § 144.343(1) provides that any minor may give effective consent for mental health services to determine the presence of or to treat pregnancy and conditions associated therewith, venereal disease, alcohol and other drug abuse. The consent of no other person is required.

Minn. Stat. Ann. § 144.3431 provides: “A minor who is age 16 or older may give effective consent for nonresidential mental health services, and the consent of no other person is required. For purposes of this section, ‘nonresidential mental health services’ means outpatient services as defined in section 245.4871, subdivision 29, provided to a minor who is not residing in a hospital, inpatient unit, or licensed residential treatment facility or program.”

Minn. Stat Ann § 245.4871(29) defines “outpatient services” as “mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to children with emotional disturbances who live outside a hospital. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.”

Minn. Stat. Ann. § 144.3431 also provides that it does not preclude a minor from providing effective consent for mental health or other health services according to the authority in section 144.344 or other applicable law. Minn. Stat. Ann. § 144.344 provides that medical, dental, mental and other health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the professional’s judgment, the risk to the minor’s life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.

Pregnancy-Related Care

Minn. Stat. Ann. § 144.343(1) provides that any minor may consent for medical, mental and other health services to determine the presence of or to treat pregnancy and conditions associated with pregnancy. The consent of no other person is required.

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

Sexually Transmitted Infection/Disease/HIV Care

Minn. Stat. Ann. § 144.343(1) provides that any minor may give effective consent for “medical, mental and other health services to determine the presence of or to treat ... venereal disease.” The consent of no other person is required.

The Minnesota Department of Health identifies a list of “Common STDs” that includes AIDS and HIV, <https://www.health.state.mn.us/diseases/stds/index.html#stds>.

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

Substance Use Care

Minn. Stat. Ann. § 144.343(1) provides that any minor may consent for medical, mental and other health services to determine the presence of or to treat alcohol and other drug abuse. The consent of no other person is required.

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/Mental Health Records

Minn. Stat. Ann. § 144.292 provides that “patients” shall have access to “health records,” with certain exceptions. *Minn. Stat. Ann. § 144.293* provides that in general, a healthcare provider cannot release records without a signed and dated consent from the “patient.” *Minn. Stat. Ann. § 144.291* defines “patient” for these purposes. In the case of minors, patient includes the minor’s parent or guardian or a person acting as a parent or guardian, unless the minor has received health care services under *Minn. Stat. Ann. §§ 144.341 – 141.347*, in which case the minor is the patient and holds these rights.

Minn. Stat. Ann. § 144.291 defines “Health record” for this purpose to mean any information, whether oral or recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of a patient; the provision of health care to a patient; or the past, present, or future payment for the provision of health care to a patient.

Minn. Stat. Ann. § 144.294 contains specific requirements related to the disclosure of mental health information to a spouse, parent, child, or sibling of a patient.

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

Minn. Stat. Ann. § 144.346 provides that a medical professional may inform the minor’s parent or guardian of any treatment given or needed for which the minor is authorized to give consent under *Minn. Stat. Ann. §§ 144.341 – 144.3441*, when, in the “judgment of the professional, failure to inform the parent or guardian would seriously jeopardize the health of 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.

Constitution

In *Women of State of Minn. by Doe v. Gomez*, 542 N.W.2d 17, 27 (Minn. 1995), the Minnesota Supreme Court found that “the right of privacy in the Minnesota Constitution protects a woman’s right to decide to terminate her pregnancy.”

Minn. Stat. Ann. § 145.409 provides that the Minnesota Constitution establishes the principles of individual liberty, personal privacy, and equality. Such principles ensure the fundamental right to reproductive freedom and that a local unit of government may not regulate an individual’s ability to freely exercise the fundamental rights set forth in § 145.409 in a manner that is more restrictive than that set forth in § 145.409.

“Conversion Therapy” Ban

For up to date information on the status of statutes or case law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors in all 50 states and DC, see [Movement Advancement Project’s “Equality Maps: Conversion “Therapy” Laws.”](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

Minn. Stat. Ann. § 144.344 provides that “medical, dental, mental and other health services may be given to minors of any age without parent or guardian’s consent when, in the professional’s judgment, the risk to the minor’s life or health is of such a nature that treatment should be given without delay and the requirement of consent would delay or deny treatment.”

Financial Responsibility

Minn. Stat. Ann. § 144.347 provides that a minor who

consents for services pursuant to *Minn. Stat. Ann. §§ 144.341 – 144.3441* is financially responsible for the cost of the services.

Gender Affirming Care

There are no restrictions on access to gender affirming care for minors in Minnesota law.

For up to date information on the status of 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

Minn. Stat. Ann. § 144.345 provides that the consent of a minor who claims to be able to give effective consent for the purpose of receiving medical, dental, mental or other health services but who may not in fact do so, shall be deemed effective without the consent of the minor’s parent or legal guardian, if the person rendering the service relied in good faith upon the representations of the minor.

Hepatitis B Vaccination, Minor Consent

Minn. Stat. Ann. § 144.3441 provides that a minor may give effective consent for a hepatitis B vaccination. The consent of no other person is required.

Minor Parent, Consent for Child’s Care

Minn. Stat. Ann. § 144.342 provides that any minor who has borne a child may consent for personal medical, mental, dental, and other health services, or to services for the minor’s child. The consent of no other person is required.

Reproductive Freedom

Minn. Stat. Ann. § 145.409, the Protect Reproductive Options Act, provides that “reproductive health care” means health care offered, arranged, or furnished for the purpose of preventing pregnancy, terminating a pregnancy, managing pregnancy loss, or improving maternal health and birth outcomes. Reproductive health care includes, but is not limited to, contraception; sterilization; preconception care; maternity care; abortion care; family planning and fertility services; and counseling regarding reproductive health care.

Minn. Stat. Ann. § 145.409 also provides: “(a) Every individual has a fundamental right to make autonomous decisions about the individual’s own reproductive health, including the fundamental right to use or refuse reproductive health care. (b) Every individual who becomes pregnant has a fundamental right to continue the pregnancy and give birth, or obtain an abortion, and to make autonomous decisions about how to exercise this fundamental right.”

Minn. Stat. Ann. § 145.409 also provides that the Minnesota Constitution establishes the principles of individual liberty, personal privacy, and equality. Such principles ensure the fundamental right to reproductive freedom and that a local unit of government may not regulate an individual’s ability to freely exercise the fundamental rights set forth in § 145.409 in a manner that is more restrictive than that set forth in § 145.409.

Shield Laws

In 2023, Minnesota passed H.F. No. 366 and H.F. No. 146, which include protections designed to shield health care

providers when they legally provide “reproductive health services” in the state and protect patients who receive this care as well as protect access to “gender affirming care” for minors. The statutes include definitions for these terms. Read more about H.F. No. 366 [here](#) and H.F. No. 146 [here](#).

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

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

Tuberculosis Screening

Minn. Stat. Ann. § 144.442 provides that the school, district, or board of health may administer tuberculosis testing to some or all persons enrolled by the designated school. Any such testing shall be under the direction of a licensed physician. Prior to screening a minor for tuberculosis, the school shall inform in writing the minors and parents or guardians of the minors and seek parent or guardian consent. Minors may give consent to the tuberculosis testing if they are otherwise authorized to consent for their own care under Minn. Stat. Ann. §§ 144.341 – 144.347. The statute specifies procedures for when parent or guardian consent is withheld or cannot be obtained.

Resources

Minnesota Statutes <https://www.revisor.mn.gov/statutes/>

Minnesota Regulations <https://www.revisor.mn.gov/rules/>

MISSISSIPPI

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- S Minor Parent, Consent for Child's Care
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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

Miss. Code Ann. § 1-3-27 provides that in general a “minor... except as otherwise provided by law, shall include any person, male or female, under twenty-one (21) years of age. If a statute refers to the ability to enter into a contract affecting personal property or real property, ‘minor’ shall mean any person, male or female, under eighteen (18) years of age.”

Miss. Code Ann. § 41-41-203 defines an adult, for purposes of the Uniform Health Care Decisions Act, as any person 18 years of age or older.

Emancipation

Miss. Code Ann. §§ 93-19-1 – 93-19-9 specify a legal process for and authorize a court to enter a decree for the partial or general removal of the disability of age to enable a minor to act as if he or she had attained majority status.

In the Uniform Health Care Decisions Act, *Miss. Code Ann. § 41-41-203* defines an emancipated minor as “an individual under the age of eighteen (18) years who: (i) Is or has been married; (ii) Has been adjudicated generally emancipated by a court of competent jurisdiction; or (iii) Has been adjudicated emancipated for the purpose of making health-care decisions by a court of competent jurisdiction.” *Miss. Code Ann. § 41-41-203* defines “health care” as “any care, treatment, service, or procedure to maintain, diagnose,

or otherwise affect an individual’s physical or mental condition.”

Minor Marriage

Miss. Code Ann. § 93-1-5 provides: “Every male who is at least seventeen (17) years old and every female who is at least fifteen (15) years old shall be capable in law of contracting marriage. However, males and females under the age of twenty-one (21) years must furnish the circuit clerk satisfactory evidence of consent to the marriage by the parents or guardians of the parties.”

The statute also provides: “If the male applicant is under seventeen (17) years of age or the female is under fifteen (15) years of age, and satisfactory proof is furnished to the judge of any circuit, chancery or county court that sufficient reasons exist and that the parties desire to be married to each other and that the parents or other person in loco parentis of the person or persons so under age consent to the marriage, then the judge of any such court in the county where either of the parties resides may waive the minimum age requirement and by written instrument authorize the clerk of the court to issue the marriage license to the parties if they are otherwise qualified by law. Authorization shall be a part of the confidential files of the clerk of the court, subject to inspection only by written permission of the judge.”

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**

No statute expressly authorizes emancipated minors to consent for health care generally. However, *Miss. Code Ann. § 41-41-205* allows emancipated minors to give individual

instructions about their own health care under the Uniform Health Care Decisions Act.

Miss. Code Ann. § 93-19-9 allows emancipated minors to do the acts specified in a court decree partially or fully removing the disabilities of minority.

Married Minor

No statute expressly authorizes married minors to consent for health care generally. However, *Miss. Code Ann. § 41-41-203* provides that minors who are or have been married are emancipated for purposes of the Uniform Health Care Decisions Act.

Minor Consent—Services

Abortion

Abortion is banned in Mississippi with limited exceptions. *Miss. Code Ann. § 41-41-45* bans abortion except to save the life of the pregnant person or in cases of rape that have been reported to law enforcement. Mississippi law contains other restrictions and gestational limits on abortion that have not been repealed and have been the subject of litigation. *For up to date information on the status of abortion restrictions in Mississippi, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#). These laws are changing rapidly, so consultation with counsel is also essential.*

Within the limited exceptions in which abortion is legal, *Miss. Code Ann. §§ 41-41-51 – 41-41-63* provide that an unmarried, unemancipated minor under age 18 may not obtain an abortion without the written consent of both parents or a legal guardian, except in specified circumstances when the consent of one parent is sufficient. The law includes a judicial bypass, a medical emergency exception, and special provisions for cases of incest. *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

Miss. Code Ann. § 41-42-7 provides that contraceptive supplies and information may be furnished by physicians to any minor who is a parent, or who is married, or who has parental consent, or who has been referred for such service by a physician, clergyman, family planning clinic, a school, or a state agency.

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 a discussion of contraception and the U.S. Constitution.

Outpatient Mental Health Care

Miss. Code Ann. § 41-41-14 provides that any physician or psychologist who in the exercise of due care consults with or prescribes medication for a minor who is age 15 or older for mental and emotional problems caused by or related to alcohol or drugs is under no obligation to obtain spouse, parent, or guardian consent.

Pregnancy-Related Care

Miss. Code Ann. § 41-41-3 provides: “Any female regardless of age or marital status, is empowered to give consent for herself in connection with 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.

Reportable, Communicable, Infectious Disease Care

Miss. Code Ann. § 41-41-16 provides: “A hospital or physician, and employees of such hospital or physician, may conduct an acquired immune deficiency syndrome (AIDS)/human immunodeficiency virus (HIV) antibody test or appropriate tests for any other infectious diseases without specific consent for such tests if the hospital or physician determines that the test is necessary for diagnostic purposes to provide appropriate care or treatment to the person to be tested, or in order to protect the health and safety of other patients or persons providing care and treatment to the person to be tested. The person who is to be tested shall be informed of the nature of the test which is to be conducted.”

Sexually Transmitted Infection/Disease/HIV Care

Miss. Code Ann. § 41-41-13 provides that any physician or any nurse practitioner who in the exercise of due care renders medical care to a minor for treatment of a “venereal disease” is under no obligation to obtain the consent of a parent or guardian, or to inform the parent or guardian of this treatment.

Miss. Code Ann. § 41-41-16 provides: “A hospital or physician, and employees of such hospital or physician, may conduct an acquired immune deficiency syndrome (AIDS)/human immunodeficiency virus (HIV) antibody test or appropriate tests for any other infectious diseases without specific consent for such tests if the hospital or physician determines that the test is necessary for diagnostic purposes to provide appropriate care or treatment to the person to be tested, or in order to protect the health and safety of other patients or persons providing care and treatment to the person to be tested. The person who is to be tested shall be informed of the nature of the test which is to be conducted.”

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

Miss. Code Ann. § 41-41-14 provides that any physician or psychologist who in the exercise of due care consults with or prescribes medication for a minor who is age 15 or older for mental and emotional problems caused by or related to alcohol or drugs is under no obligation to obtain spouse, parent, or guardian consent. The minor may consent for this treatment as if the minor had reached the age of majority.

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

Miss. Code Ann. § 41-41-11 provides that any persons who are authorized and empowered to consent for surgical or medical treatment or procedures for themselves may also waive the medical privilege for themselves and consent for the disclosure of medical information and the making and delivery of copies of medical or hospital 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

Medical Records

Miss Code. Ann. § 41-9-69 provides that hospital records in their original, microfilmed, or similarly reproduced form shall be provided upon request to a parent or guardian of an unemancipated minor under eighteen (18) without the permission of such unemancipated minor.

Miss Code Ann. § 73-9-3 provides that the State Board of Dental Examiners has the duty to adopt reasonable rules and regulations providing for dentist practice records retention including regulations that include at a minimum, that dental records in their original, microfilmed, or similarly reproduced form shall be provided upon request to a parent or guardian of an unemancipated minor under eighteen (18) without the permission of such unemancipated minor.

Miss. Code Ann. § 73-43-11 provides that the State Board of Medical Licensure shall have the responsibility to adopt reasonable rules and regulations providing for physician practice records retention under the following minimum standards: medical records in their original, microfilmed, or similarly reproduced form shall be provided upon request to a parent or guardian of an unemancipated minor under eighteen (18) without the permission of such unemancipated minor.

Sexually Transmitted Disease/Infection/HIV

Miss. Code Ann. § 41-41-13 provides that any physician or any nurse practitioner who renders medical care to a minor for treatment of a “venereal disease” is under no obligation to obtain the consent of a parent or guardian, or to inform the parent or guardian of this treatment.

Substance Use

Miss. Code Ann. § 41-41-14 provides that when a physician or psychologist consults with or prescribes medication for a minor who is age 15 or older for mental and emotional problems caused by or related to alcohol or drugs based on the consent of the minor, the provider may, but is not obligated to, inform the parent or guardian of the minor as to the treatment given or needed without the consent of the minor and even over the express refusal of 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

Miss. Code Ann. § 41-41-7 provides that consent for surgical or medical treatment or procedures, suggested, recommended, prescribed or directed by a duly licensed physician, will be implied where an emergency exists if there has been no protest from a person authorized and empowered to consent, or there has been a subsequent change in the person affected that is material and morbid, and there is no one immediately available who is authorized, empowered, willing, and capacitated to consent. An emergency for this purpose is defined as a situation where, in competent medical judgment, the proposed surgical or medical treatment or procedures are immediately or imminently necessary and any delay occasioned by an attempt to obtain consent would reasonably jeopardize the life, health or limb of the person affected, or would reasonably result in disfigurement or impairment of faculties.

Gender Affirming Care, Restriction

In 2023, Mississippi passed the “Regulate Experimental Adolescent Procedures” (REAP) Act which include numerous restrictions on gender affirming care, referred to

as “gender transition procedures,” including but not limited to the following. *Miss. Code Ann. § 41-141-3* defines gender transition procedures to include puberty-blocking drugs, cross-sex hormones, and gender reassignment surgery, each of which is also defined in *§ 41-141-3*. *Miss. Code Ann. §§ 73-25-29 and 73-25-33* exclude gender transition procedures from the practice of medicine and subject physicians to potential loss of license for violations of the REAP Act. See [HB 1125](#) for more about the provisions of the REAP Act.

For up to date information on the status of protections for 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](#).

Minor Parent, Consent for Child’s Care

Miss. Code Ann. § 41-41-3 provides that consent for surgical or medical treatment or procedures for an unemancipated minor may be given by the minor’s parent. This section does not exclude parents who are minors.

Research Participation

Miss. Code Ann. § 41-41-17 provides: "(1) Any . . . emancipated minor, as defined in Section 41-41-203(e) may consent to participate as a subject in research if that research is conducted in accordance with federal law (Title 45 CFR Part 46: Protection of Human Subjects). (2) Unemancipated minors

may participate as subjects in research, if that research is conducted in accordance with federal law (Title 45 CFR Part 46: Protection of Human Subjects)." *45 CFR § 46.408* permits waiver of the requirement of parental permission for unemancipated minors to participate in research in specified circumstances.

Resources

Mississippi Code <https://www.sos.ms.gov/communications-publications/mississippi-law>

Mississippi Administrative Code <https://www.sos.ms.gov/adminsearch/default.aspx>

MISSOURI

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- S** Vaccinations, Minor 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

Mo. Rev. Stat. § 431.055 provides that the age of majority is 18.

Emancipation

No statute expressly defines emancipated minor in general or outlines a legal process by which a minor may emancipate; however, some statutes and case decisions reference emancipation.

For example, *Mo. Rev. Stat. § 452.340* provides that a parent's obligation to provide child support ends, subject to certain exceptions, when: a minor reaches age 18 years; dies; marries; enters active military service; or becomes self-supporting, if the custodial parent has relinquished the child from parental control by express or implied consent. In *Scruggs v. Scruggs*, 161 S.W.3d 383, 390 (2005), the court

stated that § 452.340 incorporated many of the common law principles of emancipation and that emancipation can be accomplished by express or implied parental consent or by a change in the child's status in the eyes of society which is usually shown by the child entering the military or marriage; however, it can also be shown when a child, who is able to care for his or herself, voluntarily chooses to leave the parental home and attempts to "fight the battle of life on [his or her] own account."

Minor Marriage

Mo. Rev. Stat. § 431.090 provides that age 16 years is the minimum age for marriage for both males and females; parent consent is required for minors under age 18 years. Marriage is prohibited between a male or female age 21 years or older and a male or female under age 18 years.

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**

Mo. Rev. Stat. § 431.061 provides that any minor who has been lawfully married may consent to any surgical, medical, or other treatment or procedures, including immunizations, not prohibited by law.

Mo. Rev. Stat. § 431.065 provides that any minor who has been married is considered an adult for the purpose of entering into a contract for surgical, medical, or other treatment or procedures for himself or herself. *Mo. Rev. Stat. § 431.061(2)* provides that § 431.061 "shall be liberally construed."

Minor Living Apart from Parent/Guardian

Mo. Rev. Stat. § 431.056 provides that a minor who meets all the following criteria:

- Age 16 or 17 years;
- "homeless" or a "victim of domestic violence" or sexual assault;
- self-supporting, meaning the minor is without the physical or financial support of a parent or legal guardian; and
- has express or "implied parent or legal guardian consent" for living independent of the parents' or guardians' control,

is "qualified and competent to contract for" medical and mental health care, admission to a "shelter for victims of domestic violence," a "rape crisis center," or a homeless shelter, and may also contract for services as a victim of domestic violence or sexual assault, including, but not limited to, counseling, court advocacy, financial assistance,

and other advocacy services, unless the child is under the supervision of the children's division or the jurisdiction of the juvenile court.

"Implied consent" of a parent or guardian includes any action made by the parent or guardian of the minor that indicates the parent or guardian is unwilling or unable to adequately care for the minor. Such actions may include, but are not limited to: (i) Barring the minor from the home or otherwise indicating that the minor is not welcome to stay; (ii) Refusing to provide any or all financial support for the minor; or (iii) Abusing or neglecting the minor, as defined in *Mo. Rev. Stat. § 210.110*, or committing an act or acts of domestic violence against the minor, as defined in *Mo. Rev. Stat. § 455.010*.

"Implied consent" also may be demonstrated by a letter signed by the following persons verifying that the minor is an unaccompanied youth, as defined in *42 U.S.C. § 11434a(6)*:

- i. A director or designee of a governmental or nonprofit agency that receives public or private funding to provide services to homeless persons;
- ii. A local education agency liaison for homeless children and youth designated under *42 U.S.C. § 11432(g)(1)(J)* (ii), or a school social worker or counselor; or
- iii. A licensed attorney representing the minor in any legal matter.

For purposes of this statute, *Mo. Rev. Stat. § 167.020* defines "homeless child." *Mo. Rev. Stat. § 455.010* includes definitions of "sexual assault" and "domestic violence." *Mo. Rev. Stat. § 455.003* defines "rape crisis center." *Mo. Rev. Stat. § 455.200* contains a definition of "shelter for victims of domestic violence."

Minor Parent

Mo. Rev. Stat. § 431.061 provides that minor parents may consent to any surgical, medical, or other treatment or procedures, including immunizations, not prohibited by law, for themselves and for their child. *Mo. Rev. Stat. § 431.061(2)* provides that *§ 431.061* "shall be liberally construed."

Mo. Rev. Stat. § 431.065 provides that minors who are parents or legal custodians of a child are considered an adult for the purpose of entering into a contract for surgical, medical, or other treatment or procedures for themselves.

Pregnant Minor

Mo. Rev. Stat. § 431.061 provides that any minor "in case of pregnancy, but excluding abortions" is authorized and empowered to consent, either orally or otherwise, to any surgical, medical, or other treatment or procedures, including immunizations, not prohibited by law. *Mo. Rev. Stat. § 431.061(2)* provides that *§ 431.061* "shall be liberally construed."

Minor Consent—Services

Abortion

Abortion is banned in Missouri, except in limited circumstances. *Mo. Rev. Stat. § 188.017* bans abortions except in cases of medical emergency, defined as conditions for which an immediate abortion is necessary to "to avert the death of the pregnant woman or for which a delay will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman[.]" Missouri law contains other abortion restrictions and gestational limits that have not been repealed. *For up to date information on the status of abortion restrictions in Missouri, see Center for Reproductive Rights, After Roe Fell: Abortion Laws by State.*

Within the limited exceptions in which abortion is legal, *Mo. Rev. Stat. § 188.028* provides that an unemancipated minor may not obtain an abortion without the informed written consent of the minor and one parent; the consenting parent must give prior notice to any other custodial parent. The law includes a medical emergency exception and a judicial bypass. *Mo. Rev. Stat. § 188.250(4)* provides that an unemancipated minor does not have capacity to consent to any action in violation of *§ 188.250* or *§ 188.028*. *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.*

In addition, *Mo. Rev. Stat. § 188.250* provides that a person shall not "intentionally cause, aid, or assist a minor to obtain an abortion without the consent or consents required by *§ 188.028*." In *Planned Parenthood of Kan. & Mid-Mo., Inc. v. Nixon*, 220 S.W.3d 732, 2007 Mo. LEXIS 64 (Mo. 2007), the court upheld the statute after applying a narrowing construction: "The phrase 'aid or assist' in *§ 188.250.1* cannot be constitutionally construed to include protected activities such as providing information or counseling. This Court gives the phrase 'aid or assist' in section *§ 188.250.1* a narrowed construction so as not to include speech or expressive conduct. As so construed, it does not bar providing information or counseling and does not violate the First Amendment. This narrowing construction is consistent with this Court's understanding that the legislature would seek to regulate conduct even if regulation of speech and expressive conduct is barred by the First Amendment."

These laws are changing rapidly, so consultation with counsel is also essential. 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.

Family Planning/ Contraceptives

No statute expressly authorizes minors to consent for family planning services or contraception 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.

Pregnancy-Related Care

Mo. Rev. Stat. § 431.061 provides that any minor “in case of pregnancy, but excluding abortions” is authorized and empowered to consent, either orally or otherwise, to any surgical, medical, or other treatment or procedures, including immunizations, not prohibited by law. Mo. Rev. Stat. § 431.061(2) provides that § 431.061 “shall be liberally construed.”

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

Mo. Rev. Stat. § 595.220 provides that a minor who may be a victim of a sexual offense may consent for a forensic examination.

Mo. Rev. Stat. § 431.056 provides that a minor who meets all the following criteria:

- Age 16 or 17 years;
- “homeless” or a “victim of domestic violence” or sexual assault;
- self-supporting, meaning the minor is without the physical or financial support of a parent or legal guardian; and
- has express or “implied parent or legal guardian consent” for living independent of the parents’ or guardians’ control,

is “qualified and competent to contract for” medical and mental health care, admission to a “shelter for victims of domestic violence,” a “rape crisis center,” or a homeless shelter, and may also contract for services as a victim of domestic violence or sexual assault, including, but not limited to, counseling, court advocacy, financial assistance, and other advocacy services, unless the child is under the supervision of the children’s division or the jurisdiction of the juvenile court.

“Implied consent” of a parent or guardian includes any action made by the parent or guardian of the minor that indicates the parent or guardian is unwilling or unable to adequately care for the minor. Such actions may include, but are not limited to: (i) Barring the minor from the home or otherwise indicating that the minor is not welcome to stay; (ii) Refusing to provide any or all financial support for the minor; or (iii) Abusing or neglecting the minor, as defined in Mo. Rev. Stat. § 210.110, or committing an act or acts of domestic violence against the minor, as defined in Mo. Rev. Stat. § 455.010.

“Implied consent” also may be demonstrated by a letter signed by the following persons verifying that the minor is an unaccompanied youth, as defined in 42 U.S.C. § 11434a(6):

- iv. A director or designee of a governmental or nonprofit agency that receives public or private funding to provide services to homeless persons;
- v. A local education agency liaison for homeless children and youth designated under 42 U.S.C. § 11432(g)(1)(J) (ii), or a school social worker or counselor; or
- vi. A licensed attorney representing the minor in any legal matter.

For purposes of this statute, Mo. Rev. Stat. § 167.020 defines “homeless child.” Mo. Rev. Stat. § 455.010 includes definitions of “sexual assault” and “domestic violence.” Mo. Rev. Stat. 455.003 defines “rape crisis center.” Mo. Rev. Stat. § 455.200 contains a definition of “shelter for victims of domestic violence.”

Sexually Transmitted Infection/Disease/HIV Care

Mo. Rev. Stat. § 431.061 provides that any minor “in case of venereal disease” is authorized and empowered to consent, either orally or otherwise, to any surgical, medical, or other treatment or procedures, including immunizations, not prohibited by law. Mo. Rev. Stat. § 431.061(2) provides that § 431.061 “shall be liberally construed.”

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

Mo. Rev. Stat. § 431.061 provides that any minor “in case of drug or substance abuse including those referred to in chapter 195” is authorized and empowered to consent, either orally or otherwise, to any surgical, medical, or other treatment or procedures, including immunizations, not prohibited by law. Mo. Rev. Stat. § 431.061(2) provides that § 431.061 “shall be liberally construed.”

Mo. Rev. Stat. § 195.017 contains a list of the scheduled substances subject to the Missouri Narcotic Drug Act.

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

Medical Records

Mo. Rev. Stat. § 191.227 provides that “physicians, chiropractors, hospitals, dentists, and other duly licensed practitioners in this state, herein called “providers”, shall, upon written request of a patient, or guardian or legally authorized representative of a patient, furnish a copy of his or her record of that patient’s health history and treatment rendered to the person submitting a written request, except that such right shall be limited to access consistent with the patient’s condition and sound therapeutic treatment as determined by the provider.”

Health Maintenance Organizations

Mo. Rev. Stat. § 354.515 requires 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. The section also requires that mental health records of enrollees must remain confidential.

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

HIV

Mo. Rev. Stat. § 191.656 provides that no person is liable for violating any duty or right of confidentiality for disclosing HIV test results to the parents or guardian custodian of an unemancipated minor; however, this does not impose a duty on any person to disclose the results of an individual’s HIV testing to a parent.

Minor Consent Services

Mo. Rev. Stat. § 431.062 provides that whenever minors are examined, treated, hospitalized, or receives medical or surgical care for which they have given their own consent under *Mo. Rev. Stat. § 431.061*, a physician or surgeon may, with or without the minor's consent, advise the parent, parents, conservator, or relative caregiver of the health care given or needed if the provider knows the whereabouts of the parent or guardian. In the event that the minor is found not to be pregnant or not afflicted with a venereal disease or not suffering from drug or substance abuse, then no information with respect to any appointment, examination, test or other medical procedure shall be given to the parent, parents, conservator, relative caregiver or any other person.

Sexual Assault

Mo. Rev. Stat. § 595.220 provides that when a minor consents to a forensic examination for sexual assault, the appropriate medical provider making the examination must give written notice to the parent or guardian of the minor 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

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.

Domestic Violence, Minor Consent

Mo. Rev. Stat. § 431.056 provides that a minor who meets all the following criteria:

Age 16 or 17 years;

- "homeless" or a "victim of domestic violence" or sexual assault;
- self-supporting, meaning the minor is without the physical or financial support of a parent or legal guardian; and
- has express or "implied parent or legal guardian consent" for living independent of the parents' or guardians' control,

is "qualified and competent to contract for" medical and mental health care, admission to a "shelter for victims of domestic violence," a "rape crisis center," or a homeless shelter, and may also contract for services as a victim of domestic violence or sexual assault, including, but not limited to, counseling, court advocacy, financial assistance, and other advocacy services, unless the child is under the supervision of the children's division or the jurisdiction of the juvenile court.

"Implied consent" of a parent or guardian includes any action made by the parent or guardian of the minor that indicates the parent or guardian is unwilling or unable to adequately care for the minor. Such actions may include, but are not limited to: (i) Barring the minor from the home or otherwise indicating that the minor is not welcome to stay; (ii) Refusing to provide any or all financial support for the minor; or (iii) Abusing or neglecting the minor, as defined in *Mo. Rev. Stat. § 210.110*, or committing an act or acts of domestic violence against the minor, as defined in *Mo. Rev. Stat. § 455.010*.

"Implied consent" also may be demonstrated by a letter signed by the following persons verifying that the minor is an unaccompanied youth, as defined in 42 U.S.C. § 11434a(6):

- vii. A director or designee of a governmental or nonprofit agency that receives public or private funding to provide services to homeless persons;
- viii. A local education agency liaison for homeless children and youth designated under 42 U.S.C. § 11432(g)(1)(J)(ii), or a school social worker or counselor; or

- ix. A licensed attorney representing the minor in any legal matter.

For purposes of this statute, *Mo. Rev. Stat. § 167.020* defines “homeless child.” *Mo. Rev. Stat. § 455.010* includes definitions of “sexual assault” and “domestic violence.” *Mo. Rev. Stat. § 455.003* defines “rape crisis center.” *Mo. Rev. Stat. § 455.200* contains a definition of “shelter for victims of domestic violence.”

Emergency Care

Mo. Rev. Stat. § 431.063 provides that “consent to surgical or medical treatment or procedures is implied where an emergency exists if there has been no protest or refusal of consent by a person authorized and empowered to consent, or, if so, there has been a subsequent change in the condition of the person affected that is material and morbid, and there is no one immediately available who is authorized, empowered, willing and capacitated to consent.” An “emergency” is defined as “a situation in which, based on competent medical judgment, the proposed surgical or medical treatment or procedures are immediately or imminently necessary and any delay occasioned by an attempt to obtain a consent would reasonably jeopardize the life, health or limb of the person affected, or would reasonably result in disfigurement or impairment of faculties.” *Mo. Rev. Stat. § 431.061(2)* provides that § 431.061 “shall be liberally construed.”

Mo. Rev. Stat. § 334.930 provides immunity for civil damages to a respiratory care practitioner who, in good faith, renders emergency assistance without compensation to any minor involved in an accident (e.g. competitive sports) without first obtaining the consent of the minor’s parent or guardian. The statute does not provide immunity for damages from negligence, or willful or wanton acts, or omissions by the person in rendering emergency care.

Financial Responsibility

Mo. Rev. Stat. § 431.062 provides that when a minor consents for care under *Mo. Rev. Stat. § 431.061*, the parent, parents conservator, or relative caregiver of the minor are not liable for payment for the care of the minor unless they have expressly agreed to pay.

Gender Affirming Care, Restrictions

Enacted in 2023, *Mo. Rev. Stat. § 191.1720* prohibits health care providers from knowingly performing “gender transition surgery,” or prescribing or administering “cross-sex hormones” or “puberty-blocking drugs” for purposes of gender transition on any individual under age 18 years. However, the provisions of this subsection shall not apply to the prescription or administration of “cross-sex hormones” or “puberty-blocking drugs” for any individual under 18 years of age who was prescribed or administered such hormones or drugs prior to August 28, 2023, for the purpose of assisting the individual with a gender transition. The statute includes definitions for key terms such as “gender transition surgery,” “cross-sex hormones” and “puberty-blocking drugs.”

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.

Good Faith Reliance/Immunity from Liability

Mo. Rev. Stat. § 431.061 provides that any person acting in good faith and not having been put on notice to the contrary shall be justified in relying on the representations of a minor giving consent under *Mo. Rev. Stat. § 431.061* including, but not limited to, identity, age, marital status, and relationship to any other person for whom the consent is purportedly given.

Mo. Rev. Stat. § 537.037 provides that any mental health professional, qualified counselor, physician, certified nurse practitioner, physician’s assistant, or any other person may in good faith render suicide prevention interventions at the scene of a threatened suicide and is not liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering suicide prevention interventions.

Mo. Rev. Stat. § 431.056 provides that any legally constituted entity or licensed provider who provides services to a minor after determining they meet the criteria as “homeless” or a “victim of domestic violence” as outlined in the statute shall be immune from any civil or criminal liability based on the entity’s or provider’s determination to contract with the minor; provided that, if an entity’s or provider’s determination of compliance with *Mo. Rev. Stat. 431.056(1)*, or conduct in contracting with the minor, is the result of the entity’s or provider’s gross negligence or willful or wanton acts or omissions, then the entity or provider may be held liable for their gross negligence or willful or wanton acts or omissions. Consent given under this section shall not be subject to later disaffirmance by reason of the minor’s age.

Minor Parent, Consent for Child’s Care

Mo. Rev. Stat. § 431.061 provides that minor parents may consent to any surgical, medical, or other treatment or procedures, including immunizations, not prohibited by law, for their child. *Mo. Rev. Stat. § 431.061(2)* provides that “§ 431.061 “shall be liberally construed.”

Mo. Rev. Stat. § 431.065 provides that minors who are parents or legal custodians of a child are considered to be adult for the purpose of entering into a contract for surgical, medical, or other treatment or procedures for their child and any child in their legal custody.

Vaccinations, Minor Consent

Mo. Rev. Stat. § 431.061 provides that married minors, minor parents, and pregnant minors may consent to immunizations, not prohibited by law, for themselves and for their child; it also provides that “in case of venereal

disease” or “drug or substance abuse” minors may consent for immunizations *Mo. Rev. Stat. § 431.061* provides that § 431.061 “shall be liberally construed.”

Resources

Missouri Statutes <https://revisor.mo.gov/main/Home.aspx>

Missouri Code of State Regulations <https://www.sos.mo.gov/adrules/csr/csr>

MONTANA

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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
- S** Emergency Care
- S** **F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- S** **F** Pregnancy-Related Care
- S** Reportable, Communicable, Infectious Disease Care
- Sexual Assault Care
- S** **F** Sexually Transmitted Infection/Disease/HIV Care
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Confidentiality and Disclosure

- S** **F** Confidentiality/Access to Records
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Minor Consent to Health Care—Minor's Status

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

Other

- S** Gender Affirming Care, Restriction
- S** Financial Responsibility
- S** Health Insurance, Minor
- S** Minor Parent, Consent for Child
- S** Parent Consent
- S** Provider Discretion

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

Mont. Const., Art. II, § 14 provides that the age of majority is 18.

Emancipation

Mont. Code Ann. § 41-1-501 provides that a court may issue an order of limited emancipation to a youth, which may include the right to obtain access to medical treatment and records upon the youth's own authorization.

Mont. Code Ann. § 41-1-401 defines emancipated minor for the purpose of consenting to health care.

Minor Marriage

Mont. Code Ann. § 40-1-202 provides that minors 16 and older may marry with judicial approval. *Mont. Code Ann. §*

40-1-213 provides that a court may order the clerk to issue a marriage license to a party age 16 or 17 years "who has no parent capable of consenting to the party's marriage or has the consent of both parents or of the parent having the actual care, parenting authority, and control to the party's marriage, if capable of giving consent, or of the party's guardian." The court must require marriage counseling of at least two sessions before issuing such an order. The court must find that the underaged party is capable of assuming the responsibilities of marriage and the marriage will serve the party's best interests. Pregnancy alone does not establish that the best interests of the party will be served.

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**

Mont. Code Ann. § 41-1-402 provides that emancipated minors may consent to health care. *Mont. Code Ann. § 41-1-401* defines emancipated minor for the purpose of consenting to health care.

High School Graduate

Mont. Code Ann. § 41-1-402 provides that the consent to the provision of health services and to control access to protected health care information by a health care facility or to the performance of health services by a health professional may be given by a minor who professes or is found to have graduated from high school.

Married Minor

Mont. Code Ann. § 41-1-401 provides that a minor who is

or has been married is emancipated for the purposes of health consent.

Mont. Code Ann. § 41-1-402 provides that a minor who professes to be or to have been married, or is found to be married, may consent for the provision of health services by a health care facility or a health professional and may control access to protected health care information, as determined by the health professional in good faith and with a reasonable belief as supported by fact.

Minor Living Apart from Parent/Guardian

Mont. Code Ann. § 41-1-401 provides that a minor who is separated from the individual's parent, parents, or legal guardian and is self-supporting is emancipated for the purposes of health consent.

Mont. Code Ann. § 41-1-402 provides that a minor who professes to be or is found to be separated from the

minor's parent for whatever reason and is providing self-support by whatever means may consent for the provision of health services by a health care facility or a health professional and may control access to protected health care information, as determined by the health professional in good faith and with a reasonable belief as supported by fact.

Minor Parent

Mont. Code Ann. § 41-1-402 provides that minors who profess to have or are found to have had a child may consent for the provision of health services for themselves.

Minor Consent—Services

Abortion

Abortion is legal and protected in Montana. In *Armstrong v. State*, 296 Mont. 361, (1999), the Montana Supreme Court held that Montana's state constitution protects the "right to seek and to obtain a ... pre-viability abortion, from a health care provider." *For up to date information on the status of abortion protections and restrictions in Montana*, 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 several laws have been enacted requiring parental notice and consent. In 1995, the state legislature passed laws requiring parental notice for a minor to seek an abortion. (*Mont. Code Ann. §§ 50-20-201 through 50-20-215*). In *Wicklund v. State*, No. ADV-97-671 (Mont. Dist. Ct. Feb 11, 1999) (summary judgment), No. ADV-97-671 (Mont. Dist. Ct. Feb. 25, 1999) (permanent injunction), appeal filed, No. 99-311 (Mont. Apr. 15, 1999), appeal dismissed (Mont. Nov. 29, 1999), the court ruled that the notice law violated the Montana Constitution and enjoined its enforcement.

In 2011, the state legislature passed a new set of laws requiring parental notice for a minor to seek an abortion, (*Mont. Code Ann. §§ 50-20-201 – 50-20-235*) and in 2013, voters passed laws by referendum requiring parental consent for a minor to seek an abortion. The Consent Act was codified at *Mont. Code Ann. §§ 50-20-501 – 50-20-511*. This Consent Act repealed the notice act of 2011. Both were challenged as violating minors' rights under the state constitution. The court preliminarily enjoined the Consent Act, however, so its repeal of the notice act did not take effect and thus the Notice Act has been in effect since 2013 as the court challenge to its constitutionality proceeds.

The Notice Act of 2011 prohibits a physician from performing an abortion for an unemancipated minor under age 16 years unless "the physician has given at least 48 hours' actual notice to one parent or to the legal guardian of the pregnant minor of the physician's intention to perform the abortion. ... If actual notice is not possible after a reasonable effort, the physician or the physician's agent

shall give alternate notice." The law includes a judicial bypass and a medical emergency exception. On August 14, 2024, in *Planned Parenthood of Montana v. State of Montana*, 20224 MT 178, the Montana Supreme Court held that the Consent Act violates the Montana Constitution. *Because this is an active case, the law in this area may change. 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.

Emergency Care

Mont. Code Ann. § 41-1-402 provides that a minor who needs emergency care, including transfusions, necessary to prevent serious injury or harm, may consent for health services.

Mont. Code Ann. § 41-1-405 provides that any health professional may render or attempt emergency services or first aid, medical, surgical, dental, or psychiatric treatment, without compensation, to any injured person regardless of age who is in need of immediate health care when the professional believes that the aid is the only alternative to probable death or serious physical or mental damage. Consent may not be required of a minor who does not possess the mental capacity or who has a physical disability that renders the minor incapable of giving consent and who has no known relatives or legal guardians, if a physician determines that the health service should be given. Self-consent of minors to emergency situations does not apply to sterilization or abortion, except as provided by laws addressing adolescent abortion.

Family Planning/ Contraceptives

Mont. Code Ann. § 41-1-402 provides that a minor who professes or is found to be pregnant may consent for health services given in connection with the prevention of pregnancy. A health professional providing care in these cases of self-consent must provide counseling or refer the minor to another professional for counseling.

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

Mont. Code Ann. § 53-21-112 provides that notwithstanding any other provision of law, a minor who is age 16 years or older may consent for mental health services by a licensed physician, licensed mental health professional, or facility as defined in *Mont. Code Ann. § 53-21-102*.

Pregnancy-Related Care

Mont. Code Ann. § 41-1-402 provides that a minor who professes or is found to be pregnant may consent for health services given in connection with the prevention, diagnosis, and treatment of pregnancy. The treating health professional providing care in these cases must provide counseling or refer the minor to another professional for counseling. *Mont. Code Ann. § 41-1-405* provides that a minor may not consent for sterilization or abortion except as provided in Title 50, chapter 20, part 5 of the Montana Code.

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 Disease Care

Mont. Code Ann. § 41-1-402 provides that a minor who professes or is found to be afflicted with any reportable communicable disease, including a sexually transmitted disease, may consent for the provision of health services given in connection with the prevention, diagnosis and treatment of such disease. A health professional providing care in these cases of self-consent must provide counseling or refer the minor to another professional for counseling. *Mont. Admin. R. 37.114.203* lists reportable communicable diseases.

Sexually Transmitted Infection/Disease/ HIV Care

Mont. Code Ann. § 41-1-402 provides that a minor who professes or is found to be afflicted with any reportable communicable disease, including a sexually transmitted disease, may consent for the provision of health services given in connection with the prevention, diagnosis and treatment of such disease. A health professional providing care in these cases of self-consent must provide counseling or refer the minor to another professional for counseling. *Mont. Admin. R. 37.114.203* lists reportable communicable diseases, which include HIV and other STIs.

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

Mont. Code Ann. § 41-1-402 provides that a minor who professes or is found to be “afflicted with ...drug and substance abuse, including alcohol,” may consent for the provision of health services given in connection with the prevention, diagnosis, and treatment of this condition. A health professional providing care in these cases of self-consent must provide counseling or refer the minor to another professional for counseling.

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 Care Information

Mont. Code Ann. § 41-1-402 provides that a minor who is authorized to consent for health care under § 41-1-402 may also control access to protected health care information.

Mont. Code Ann. § 50-16-521 provides that when a minor is authorized under § 41-1-402 to consent for care without parental consent, only the minor may exclusively exercise the rights of a patient under the state's Uniform Health Care Information Act, *Mont. Code Ann. §§ 50-16-501 – 50-16-553*.

Health Maintenance Organizations

Mont. Code Ann. § 33-31-113 requires that “data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person, or from any provider, by any health maintenance organization shall be held in confidence and shall not be disclosed” except upon the express consent of the enrollee or applicant or for other specified purposes.

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

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

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

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

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

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

Disclosure Of Health Information To Parents/Guardians

Emancipated Minors

Mont. Code Ann. § 41-1-403 provides that emancipated minors and their health information are not subject to the disclosure of information to a parent, custodian, or guardian of a minor by a health professional.

Emergency Care

Mont. Code Ann. § 41-1-402 provides that when a minor receives emergency care without parental consent, the parent or guardian shall be informed as soon as practical, except in the case of minors who authorized to give their own consent for care under *Mont. Code Ann. § 41-1-402*.

Minor Consent Services

Mont. Code Ann. § 41-1-403 provides that a health professional shall inform the parent or guardian of a minor authorized to consent for health care under *Mont. Code Ann. § 41-1-402* of any treatment given or needed when:

- in the judgment of the health professional, severe complications are present or anticipated;
- major surgery or prolonged hospitalization is needed;
- failure to inform the parent/guardian would jeopardize the safety and health of the minor patient, younger siblings, or the public;
- informing them would benefit the minor’s physical and mental health and family harmony; or
- the health professional or health care facility providing treatment desires a third-party commitment to pay for services.

If the minor is found not to be pregnant or not afflicted with a sexually transmitted disease or not suffering from drug abuse, then information may not be given to the parent or guardian without the consent of the minor, if they have not already been informed pursuant to §§ 41-1-401 – 41-1-407.

For providers subject to the Montana Uniform Health Care Information Act, *Mont. Code Ann. § 50-16-521* provides:

“(1) A person authorized to consent to health care for another may exercise the rights of that person under this part to the extent necessary to effectuate the terms or purposes of the grant of authority. If the patient is a minor and is authorized under 41-1-401 to consent to health care without parental consent, only the minor may exclusively exercise the rights of a patient under this part as to information pertaining to health care to which the minor lawfully consented.

(2) A person authorized to act for a patient shall act in good faith to represent the best interests of the patient.”

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.

Financial Responsibility

Mont. Code Ann. § 41-1-404 provides that the spouse, parent, parents, or legal guardian of a minor who consents for services under *Mont. Code Ann. § 41-1-402* are not liable for payment for the service unless the spouse, parent, parents, or legal guardian have expressly agreed to pay for the care. Minors giving consent for the health services are financially responsible for the cost, except those who are proven unable to pay and who receive the services in public institutions. If the minor is covered by health insurance, payment may be applied to cover services rendered.

Gender Affirming Care

In 2023, Montana enacted *S.B. 99, the Youth Health Protection Act*, codified at *Mont. Code Ann. §§ 50-4-1001 – 50-4-1006*, which prohibits a person from knowingly providing surgical procedures, cross-sex hormones, and puberty blockers to address a minor's perception of their gender identity. Violations may subject health care professionals to professional discipline or to civil lawsuits for damages or equitable relief. The law also contains prohibitions on the use of Medicaid or other public funds for the prohibited procedures. The Act has been challenged. A state trial court issued a preliminary injunction on enforcement of the Act, and as of May 2024, the case is on appeal to the Montana Supreme Court.

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**.

Health Insurance, Minor

Mont. Code Ann. § 33-15-103 provides that a minor who is at least 15 years of age may contract for life and health insurance.

Minor Parent, Consent for Child

Mont. Code Ann. § 41-1-402 provides that a minor who has a child may give effective consent for health service for the child.

Parent Consent

Mont. Code Ann. § 40-6-701, enacted in 2023, provides in part:

"(1) A government entity may not interfere with the fundamental right of parents to direct the upbringing, education, health care, and mental health of their children unless the government entity demonstrates that the interference:

- (a) furthers a compelling governmental interest; and
- (b) is narrowly tailored and is the least restrictive means available for the furthering of the compelling governmental interest.

(2) All fundamental parental rights are exclusively reserved to the parent of a child without obstruction or interference by a government entity, including but not limited to the rights and responsibilities to do the following:...

- (e) make and consent to all physical and mental health care decisions for the child;
- (f) access and review all health and medical records of the child;....

...

(5) When a parent's fundamental rights protected by [section 2], [section 3], 41-1-402, 41-1-403, 41-1-405, and this section are violated, a parent may assert that violation as a claim or defense in an administrative or judicial proceeding and may obtain appropriate relief without regard to whether the proceeding is brought by or in the name of a government entity, a private person, or any other party. The prevailing party in an action filed pursuant to [section 2], [section 3], 41-1-402, 41-1-403, 41-1-405, and this section is entitled to reasonable attorney fees and costs."

Mont. Code Ann. § 40-6-701 provides that “[g]overnment entity” for this purpose “means the state, its political subdivisions, or any department, agency, commission, board, authority, institution, or office of the state, including a municipality, county, consolidated municipal-county government, school district, or other special district.”

Provider Discretion

Mont. Code Ann. § 41-1-407 provides that no physician, surgeon, dentist, or health or mental health care facility may be compelled against their best judgment to treat a minor on their own consent.

Resources

Montana Code Annotated: <https://leg.mt.gov/statute/>

Montana Administrative Rules: <https://rules.mt.gov/>

NEBRASKA

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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
- F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- F** Pregnancy-Related Care
- Reportable, Communicable, Infectious Disease Care
- 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

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

Other

- S** Emergency Care
- S** Financial Responsibility
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability
- S** Organ Donation, Minor Consent
- S** Parent Delegation to Minor Age 18, Minor Consent

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

Neb. Rev. Stat. § 43-2101 provides that the age of majority is 19 except a person 18 or older may enter into a binding contract of whatever kind or nature and consent to mental health services.

Emancipation

Neb. Rev. Stat. §§ 43-4801 – 43-4812 set forth the procedures for a minor to become emancipated. *Neb. Rev. Stat. § 43-4802* allows minors to file a petition for emancipation if they are age 16 years, married or living

apart from their parents or legal guardian, and legal residents of the state. *Neb. Rev. Stat. § 43-4810* states the effects of a judgment of emancipation.

Neb. Rev. Stat. § 43-2101 provides that if a minor marries under the age of 19, the period of minority ends.

Minor Marriage

Neb. Rev. Stat. §§ 42-102 and 42-105 provide that a minor age 17 years may marry with the written consent of a parent or legal guardian.

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**

Neb. Rev. Stat. § 43-4810 provides that an emancipated minor may consent to "medical, dental, or psychiatric care without the consent, knowledge, or liability of parents or a guardian."

Married Minor

Neb. Rev. Stat. § 43-2101 provides that if a minor marries under the age of 19, the period of minority ends.

Minor Consent—Services**Abortion**

Abortion is banned in Nebraska with limited exceptions. *Neb. Rev. Stat. §§ 71-6912 -- 71-6917*, enacted in 2023, ban abortion after 12 weeks, with limited exceptions for medical emergency, rape and incest. The federal district court dismissed a challenge to this law in *Planned Parenthood of the Heartland and Sarah Traxler v. Hilgers*, No. CI 23-2820 (Neb. Dist. Ct. Aug. 11, 2023). Pre-existing restrictions on abortion have not been repealed. For up to date information on the status of abortion restrictions in Nebraska, see [Center](#)

[for Reproductive Rights, After Roe Fell: Abortion Laws by State.](#)

Within the limited exceptions in which abortion is legal, *Neb. Rev. Stat. §§ 71-6901 - 71-6911* provide that an unemancipated minor under age 18 may not obtain an abortion without prior notarized written consent of a parent or guardian. The law includes a judicial bypass, an emergency exception, and an exception for reported cases of sexual abuse, abuse, or neglect. 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.](#)

These laws are changing rapidly, so consultation with counsel is also essential. 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.

Family Planning/ Contraceptives

No Nebraska statute was found expressly authorizing minors to consent for contraceptives.

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

Neb. Rev. Stat. § 43-2101 provides that a person age 18 years or older may consent to mental health services without the consent of a parent or guardian.

In the Mental Health Commitment Act, *Neb. Rev. Stat. § 71-918* provides that “any person” may voluntarily apply for admission to any public or private hospital, other treatment facility, or program for treatment of mental illness, substance dependence, or personality disorders in accordance with the regulations of such facilities or programs governing such admissions. Any person who is voluntarily admitted for such treatment shall be unconditionally discharged from such hospital, treatment facility, or program not later than forty-eight hours after delivery of his or her written request to any official of such hospital, treatment facility, or program, unless action is taken under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act to continue his or her custody. The Act includes definitions for key terms including “treatment facility.”

Pregnancy-Related Care

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

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

Sexually Transmitted Infection/Disease/HIV Care

Neb. Rev. Stat. § 71-504 provides that any person may give consent to a chief medical officer as designated in § 81-3115 or local director of health, if a physician, or their agent, or any physician, for diagnostic examination, prescription, and treatment, including prophylactic treatment for exposure, for a sexually transmitted disease if the person is suspected of having a sexually transmitted disease or contact with anyone having a sexually transmitted disease. All such examinations and treatment may be performed without the consent of or notification to the parent, parents, guardian, or any other person having custody of such person.

Neb. Rev. Stat. § 71-502.01 provides: “Sexually transmitted diseases are declared to be contagious, infectious, communicable, and dangerous to the public health. Sexually transmitted diseases shall include, but not be limited to, syphilis, gonorrhea, chancroid, and such other sexually transmitted diseases as the Department of Health and Human Services may from time to time specify.”

173 NAC 1-004.05 contains a list of sexually transmitted diseases, which includes HIV.

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

In the Mental Health Commitment Act, *Neb. Rev. Stat. § 71-918* provides that any person may voluntarily apply for admission to any public or private hospital, other treatment facility, or program for treatment of mental illness, substance dependence, or personality disorders in accordance with the regulations of such facilities or programs governing such admissions. Any person who is voluntarily admitted for such treatment shall be unconditionally discharged from such hospital, treatment facility, or program not later than forty-eight hours after delivery of his or her written request to any official of such hospital, treatment facility, or program, unless action is taken under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act to continue his or her custody. The Act includes definitions for key terms including “treatment facility.”

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

Contagious, Infectious, and Sexually Transmitted Diseases

Neb. Rev. Stat. § 71-511 provides for the confidentiality of patient information and test results for contagious, infectious, and sexually transmitted diseases and specifies limitations on disclosure; the information may be released with the written consent of the patient or individual or, if the patient or individual is deceased or incapable of giving informed consent, with the written consent of his or her next of kin, legal guardian, or personal representative of his or her estate.

Medical Records

Neb. Rev. Stat. § 71-8403 provides that “a patient” or the patient’s guardian or other authorized representative may request a copy of the patient’s medical records or may request to examine such records and that access to such records shall be provided upon request pursuant to §§ 71-8401 – 71-8407, except that mental health medical records may be withheld if any treating physician, psychologist, or mental health practitioner determines in his or her professional opinion that release of the records would not be in the best interest of the patient unless the release is required by court order.

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

Sexually Transmitted Disease

Neb. Rev. Stat. § 71-504 provides that when a minor receives care related to a sexually transmitted disease, notification to the parent, parents, guardian, or any other person having custody of such person is not required. However, see *Financial Responsibility* below.

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

Neb. Rev. Stat. § 38-1232 provides that emergency care providers, physician assistants, registered nurses, or licensed practical nurses are not liable in a civil action for damages when they provide public emergency care in good faith in the absence of willful, wanton, or grossly negligent acts of commission or omission; and qualified physicians or qualified physician surrogate who gives orders to any emergency care provider at the scene of an emergency and emergency care providers following such orders within the limits of their licensure, and emergency care provider trainees in an approved training program following such orders, are liable civilly or criminally by reason of having issued or followed such orders but shall be subject to the rules of law applicable to negligence.

Financial Responsibility

Neb. Rev. Stat. § 71-504 provides that when a minor receives care related to a sexually transmitted disease, the parents are liable for the expenses if the minor is in their custody.

Gender Affirming Care, Restrictions

Neb. Rev. Stat. §§ 71-7301 – 71-7307, enacted in 2023, prohibit a health care practitioner from performing “gender-altering procedures” on an individual younger than age 19 years; a violation is considered unprofessional conduct. Treatment with “puberty blocking drugs” and “cross-sex hormones” where that treatment commenced prior to October 1, 2023 may be continued.

Non-surgical “gender-altering procedures,” including “puberty blocking drugs” and “cross-sex hormones,” are permitted after October 1, 2023 in compliance with

regulations issued by the Department of Health and Human Services. *181 N.A.C 8-001 – 015* contain these regulations, including detailed requirements for individuals under age 19 years to receive non-surgical gender-altering procedures. Individuals who received gender-altering procedures before the age of 19 years in violation of the statutory prohibition, or their parent or guardian may bring a civil action for damages. *Neb. Rev. Stat. § 71-7303* defines “cross-sex hormones”, “gender-altering surgery” and other terms for this purpose.

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

Neb. Rev. Stat. § 71-504 provides that when a minor receives care related to a sexually transmitted disease without consent of or notification to the parent, parents, guardian or other person having custody of the minor, “the chief medical officer, or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions.”

Organ Donation, Minor Consent

Neb. Rev. Stat. § 71-4827 provides that a minor may consent to their own organ donation if they are emancipated or they are at least age 16 years old and authorized under state law to apply for a driver’s license.

Parent Delegation to Minor Age 18, Minor Consent

Neb. Rev. Stat. § 30-2604 provides that a parent or guardian of a minor who is at least age 18 years and who is not a ward of the state, by a properly executed power of attorney, may delegate to such minor, for a period not exceeding one year, the parent's or guardian's power to consent to such minor's own health care and medical treatment.

Resources

Nebraska Statutes <https://nebraskalegislature.gov/laws/laws.php>

Nebraska Administrative Code <https://rules.nebraska.gov/>

NEVADA

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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
- S** Emergency Care
- S** **F** Family Planning/Contraceptives
- Outpatient Mental Health Care
- F** Pregnancy-Related Care
- Reportable, Communicable, Infectious Disease Care
- Sexual Assault Care
- S** **F** Sexually Transmitted Infection/Disease/HIV Care
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Confidentiality and Disclosure

- S** **F** Confidentiality/Access to Records
- S** **F** Disclosure to Parents/Guardians
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Minor Consent to Health Care—Minor's Status

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

Other

- S** "Conversion Therapy," Ban⁴
- S** Do Not Resuscitate
- S** Financial Responsibility
- Gender Affirming Care
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Parent, Consent for Child
- S** Shield Law
- S** State Family Resource Centers, Minor 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

Nev. Rev. Stat. § 129.010 provides that the age of majority is 18 years.

Emancipation

Nev. Rev. Stat. §§ 129.080 through 129.140 set forth the criteria and procedures for a minor who is age 16 years or older or who is married to petition the court to become emancipated.

Minor Marriage

Nev. Rev. Stat. § 122.025 provides that a minor who is age 17 years or older may marry if the minor has consent of either parent or the minor's guardian and obtains authorization from the court.

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**

Nev. Rev. Stat. § 129.130 provides that an emancipated minor is authorized to give consent for medical, dental, or psychiatric care without parental consent, knowledge, or liability.

Nev. Rev. Stat. § 129.130 establishes that emancipated minors "are capable of entering any contract and are, to all intents and purposes, ...considered to be of lawful age."

Married Minor

Nev. Rev. Stat. § 129.030 provides that a minor who is or has been married may consent for "examin[ation] or provi[sion of] physical, behavioral, dental or mental health services [, except sterilization, if the minor] understands the nature and purpose of the proposed examination or services and the probable outcome, and voluntarily requests the proposed examination or services."

Minor, Age or Maturity

Nev. Rev. Stat. § 129.030 provides that a minor who is in danger of suffering a serious health hazard if health care services are not provided may consent for "examin[ation] or

provi[sion of] physical, behavioral, dental or mental health services [except sterilization, if the minor] understands the nature and purpose of the proposed examination or services and the probable outcome, and voluntarily requests the proposed examination or services."

Minor Living Apart from Parent/Guardian

Nev. Rev. Stat. § 129.030 provides that a minor who has lived apart from their parents, with or without the consent of the parent(s) or guardian, may consent for "examin[ation] or provi[sion of] physical, behavioral, dental or mental health services [, except sterilization, if the minor] understands the nature and purpose of the proposed examination or services and the probable outcome, and voluntarily requests the proposed examination or services."

A minor may demonstrate that they are living apart from their parents or legal guardian by providing to the person from whom an examination or services are requested documentary proof that they are living apart from their parents or legal guardian. Such documentary proof may include, without limitation, a written statement affirming that the minor is living separately from their parents or legal guardian signed by:

- (1) A director of a governmental agency or nonprofit organization that provides services to persons who

are experiencing homelessness or the designee of the director of such an agency or organization;

(2) A school social worker, a school counselor or a person designated as a local educational agency liaison for homeless children and youths pursuant to 42 U.S.C. § 11432(g)(1)(J)(ii); or

(3) An attorney representing the minor in any manner; It also may include documentation that the minor has been placed in protective custody; or a copy of a decree of emancipation or proof that a petition for such a decree has been filed.

Minor Parent

Nev. Rev. Stat. § 129.030 provides that a minor who is a parent or has borne a child may consent for “examin[ation] or provi[sion of] physical, behavioral, dental or mental health services [, except sterilization, if the minor] understands the nature and purpose of the proposed examination or services and the probable outcome, and voluntarily requests the proposed examination or services” for themselves and for their child.

Minor Consent—Services

Abortion

Abortion is legal and protected in Nevada. Nevada has enacted statutory protections for abortion in Nev. Rev. Stat. § 442.250 that were ratified by a ballot referendum, [1990 Nevada Ballot Question 7](#). For up to date information on the status of abortion protections and restrictions in Nevada, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

To the extent abortion is legally permitted, minors may obtain an abortion. Minors may consent to abortion and neither parental notice or consent is required. Nev. Rev. Stat. §§ 442.255 and 442.2555 provide that an unmarried unemancipated minor under age 18 may not obtain an abortion unless one parent has been personally notified. The law includes a judicial bypass and an emergency exception. However, in *Glick v. McKay*, 937 F.2d 434 (9th Cir. 1991), a court ruled that the statute is unconstitutional and has enjoined its enforcement. Thus, there is no parental notice or consent requirement currently in effect.

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.

Emergency Care

Nev. Rev. Stat. § 129.030 provides that a minor who is in danger of suffering a serious health hazard if health care services are not provided may consent for “examin[ation] or provi[sion of] physical, behavioral, dental or mental health services [, except sterilization, if the minor] understands

the nature and purpose of the proposed examination or services and the probable outcome, and voluntarily requests the proposed examination or services.”

Family Planning/ Contraceptives

Nev. Rev. Stat. § 129.060 provides that a minor may give express consent to a local or state health officer, licensed physician, physician assistant, registered nurse or clinic to issue a prescription for, the dispensing of or the administration of a contraceptive drug or device.

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

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

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

Sexually Transmitted Infection/Disease (STI/STD)

Nev. Rev. Stat. § 129.060 provides that a minor may give express consent to a local or state health officer, a licensed physician, physician assistant, registered nurse or clinic to conduct an examination for or treat any sexually transmitted disease and may provide services related to the prevention of sexually transmitted diseases, including, as specified in Nev. Rev. Stat. § 639.28085, medications for the prevention of human immunodeficiency virus (HIV).

Nev. Rev. Stat. § 441A.310 provides that when any minor is suspected of having or is found to have a sexually transmitted disease, the health authority may require the minor to undergo examination and treatment, regardless of whether the minor or either of his parents consents.

Nev. Admin. Code ch. 441A.775 provides that “sexually transmitted diseases” includes Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV).

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

Nev. Rev. Stat. § 129.050 provides that any minor who is under the influence of, or suspected to be under the influence of a controlled substance may consent, or if unable to express consent, shall be deemed to consent for the “furnishing of hospital, medical, surgical or other care for the treatment of substance use disorders or related illness by any public or private hospital, medical facility, facility for the dependent or any licensed physician, and

the consent of the minor is not subject to disaffirmance because of minority.” The minor may give express consent or, if unable to consent, shall be deemed to consent.

Nev. Rev. Stat. § 453.700 provides that any person who believes himself to be a narcotic addict may apply for voluntary submission to treatment to the health division of the department.

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

Communicable Disease, Drug Overdose, Suicide Attempt

Nev. Rev. Stat. § 441A.220 provides for the confidentiality of medical information related to communicable disease, drug overdose, or suicide attempt and restricts disclosure except with the written consent of the person who is the subject of the information or pursuant to other specified requirements.

Electronic Health Record/Health Information Exchange

Nev. Rev. Stat. § 439.590 provides that any individually identifiable health information obtained from an electronic health record or health information exchange cannot be disclosed to a parent or guardian without first obtaining the consent of the minor patient, if the health information concerns services received by a minor based on minor consent. *Nev. Admin. Code § 439.592* describes what such authorizations must contain. *Nev. Rev. Stat. § 439.597* specifies when a person must be allowed to opt out of having their individually identified health information shared electronically.

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

Minor Consent Services

Nev. Rev. Stat. § 129.030 provides that before initiating treatment based on a minor's consent, the health care provider shall make reasonable efforts to obtain the minor's consent to communicate with his or her parent or guardian. If the provider believes that such efforts would jeopardize the treatment necessary to the minor's life or necessary to avoid a serious and immediate threat to the minor's health, the provider may forego attempts to obtain the minor's consent to communication. The reasonable efforts made or the justification for not making them must be noted in the record.

Nev. Rev. Stat. § 439.590 provides that any individually identifiable health information obtained from an electronic health record or health information exchange cannot be disclosed to a parent or guardian without first obtaining the consent of the minor patient, if the health information concerns services received by a minor based on minor consent. Nev. Admin. Code § 439.592 describes what such authorizations must contain.

Substance Use

Nev. Rev. Stat. § 129.050 provides that when treating a minor for substance use disorders or related illnesses, the physician shall make every reasonable effort to report this treatment to the minor's parents or guardian within a reasonable time after treatment.

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 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.

Do Not Resuscitate

Nev. Rev. Stat. §§ 450B.525 and 450B.510 provide that a parent can apply for a do not resuscitate order for a minor child with a terminal condition, but if, in the opinion of the attending physician, the minor is of sufficient maturity to understand the nature and effect of withholding life-resuscitating treatment, then the do-not-resuscitate identification obtained pursuant to this section is not effective without the assent of the minor and the minor

may revoke the authorization to withhold life-resuscitating treatment.

Emergency Care

Nev. Rev. Stat. Ann § 129.040 provides that, "notwithstanding any other provision of law, in cases of emergency in which a minor is in need of immediate hospitalization, medical attention or surgery, and after reasonable efforts made under the circumstances, the parents of the minor cannot be located for the purpose of consenting..., then consent for such emergency may be given by any person standing *in loco parentis* to such minor."

Financial Responsibility

Nev. Rev. Stat. § 129.030 provides that the parents or legal guardian of a minor described in the statute who receives

services based on their own consent are not financially liable unless they have consented for the services, except in the case of emergency services.

Gender Affirming Care

There are no restrictions on access to gender affirming care in Nevada law at this time.

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

Nev. Rev. Stat. §§ 129.030 and 129.050 provide that no person providing services based on the consent of the minor under these sections is subject to civil or criminal liability for providing those services; the service provider may still be liable for negligence.

Minor Parent, Consent for Child

Nev. Rev. Stat. § 129.030 provides that a minor who is a parent or has borne a child may consent for examination or for "physical, behavioral, dental or mental health services," except sterilization, if the minor "understands the nature and purpose of the proposed examination or services and the probable outcome, and voluntarily requests the proposed examination or services" for themselves and for their child.

Shield Law

In 2022, the Nevada Governor issued [Executive Order 2022-08](#) prohibiting, except by court order, executive branch cooperation with out-of-state investigations and legal actions, including extradition, arising from the lawful provision of abortion in Nevada and directing state licensing boards to implement policies that ensure no person will subject to discipline or disqualified from licensure for providing or assisting with the provision of abortion care that is legal in Nevada. In 2023, the legislature

passed S.B. 131, 82nd Leg. Reg. Sess. (Nev. 2023), extending the protections to all state actors. Also in 2023, the legislature enacted S.B. 370, 82nd Leg., Reg. Sess. (Nev., 2023), that regulates the collection, usage, and sharing of consumer health data, including abortion and gender affirming care data.

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

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

State Family Resource Centers, Minor Consent

Nev. Rev. Stat. Ann. § 430A.180 provides that a licensed physician, physician assistant, registered nurse or pharmacist who is an employee or volunteer at the family resource center which has received a grant from the Director of the state Department of Health and Human Services may provide examination, treatment and prevention services for sexually transmitted disease, as well as issue a prescription for, dispense or administer a contraceptive drug or device, as described in Nev. Rev. Stat. Ann. § 129.060; however, in all other cases, an employee or volunteer of a family resource center that has received a grant from the director of the state Department of Health & Human Services must have consent from the minor's parent, guardian, or legal custodian before administering drugs or contraceptives to or performing medical or dental procedures for a minor.

Nev. Rev. Stat. Ann. § 430A.040 provides that a family resource center "means a facility within an at-risk community where families may obtain: 1. An assessment of their eligibility for social services; 2. Social services directly from the family resource center; and 3. Referrals to obtain social services from other social service agencies or organizations."

Resources

Nevada Revised Statutes <https://www.leg.state.nv.us/nrs/>

Nevada Administrative Code <https://www.leg.state.nv.us/nac/>

NEW HAMPSHIRE

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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
- F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- F** Pregnancy-Related Care
- S** Reportable, Communicable, Infectious Disease Care
- 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

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

Other

- S** Constitution
- S** "Conversion Therapy," Ban⁴
- S** Emergency Care
- S** Financial Responsibility
- Gender Affirming Care

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.H. Rev. Stat. Ann. §§ 21-B:1 and 21:44 provide that the age of majority is 18 years.

Emancipation

N.H. Rev. Stat. Ann. §§ 461-B:1 – 461-B:12 establish the procedures for a minor age 16 years or older to petition a court for emancipated status. *N.H. Rev. Stat. Ann. § 461-B:8* specifies the requirements for granting a petition and the rights and responsibilities that a court may include in an order of limited emancipation.

N.H. Rev. Stat. Ann. §§ 21-B:2 and 21-B:3 provide that married minors and minors who have been emancipated by the laws in the state of their prior residence are emancipated.

Minor Marriage

N.H. Rev. Stat. Ann. § 457:5 provides that the age of consent for marriage is age 18 years for both males and females. Any marriage contracted by a person below the age of consent, may in the discretion of the superior court be annulled at the suit of the party who at the time of contracting such marriage was below the age of consent, or at the suit of his or her parent or guardian, unless such party after arriving at such age shall have confirmed the marriage.

N.H. Rev. Stat. Ann. § 457:8 provides that a town clerk shall not issue a marriage certificate to a minor under age 18 unless the court has granted permission for the marriage as described in *N.H. Rev. Stat. Ann. § 457:7*.

N.H. Rev. Stat. Ann. § 457:4 provides that no person under the age of 16 is capable of contracting a valid marriage and marriage by a person under the age of 16 years is null and

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.H. Rev. Stat. Ann. § 461-B:8 provides that a court order of limited emancipation may include "the right to consent to medical[,] psychiatric, education, and social services."

Married Minor

No legal provision expressly authorizes a married minor to consent for health care. *N.H. Rev. Stat. Ann. § 21-B:3* provides that a married minor is emancipated, and *N.H. Rev. Stat. Ann. § 461-B:8* provides that a court order of limited emancipation may include "the right to consent to medical[,] psychiatric, education, and social services."

Minor, Age or Maturity

The New Hampshire Supreme Court, in *In re Berg*, 152 N.H. 658 (2005), recognized the mature minor rule in determining whether a minor has the right to assert the psychotherapist-patient privilege, stating "In finding that the child is sufficiently mature to make a sound judgment, the trial judge must consider the following factors: (1) the child's age, intelligence, and maturity; (2) the intensity with which the child advances his preference; and (3) whether the preference is based upon undesirable or improper influences. Based on this finding, the judge may then give substantial weight to the preference of the mature minor to either waive or assert his privilege." 152 N.H. at 666. *Consultation with counsel is essential to determine the*

scope of application for this common law rule and how it intersects with statutory law.

Minor Consent–Services

Abortion

Abortion is legal in New Hampshire, with some restrictions. *N.H. Rev. Stat. Ann. §§ 329.43 – 329.50* prohibit abortion after 24 weeks, with an emergency exception. New Hampshire law includes other restrictions on abortion. For up to date information on the status of abortion restrictions and protections in New Hampshire, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

Minors may obtain an abortion, however *N.H. Rev. Stat. Ann. §§ 132.32 – 132.36* require prior written notice to a parent for an abortion to be performed on an unemancipated minor. The law includes an emergency exception and a judicial bypass procedure. For more information on judicial bypass, find the “Under Age__” tab on your state’s link in [If When How’s Abortion Laws by State](#).

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

Family Planning/ Contraceptives

No statute expressly authorizes minors to consent for contraceptives in New Hampshire.

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 U.S. Constitution.

Outpatient Mental Health Care

No statute expressly authorizes minors generally to consent for outpatient mental health services. However, *N.H. Rev. Stat. Ann. § 135-C:12* provides that “[a]ny person seeking services from the state mental health services system may apply to an approved community mental health program or to a receiving facility” and “[a]pplication shall be made by, or with the consent of, the person seeking services.... Application for a person under 18 years of age may be made by the person’s parent or legal guardian.”

Pregnancy-Related Care

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

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

Sexually Transmitted Infection/Disease/HIV Care

N.H. Rev. Stat. Ann. § 141-C:18 provides that “any minor age 14 or older may voluntarily consent for medical diagnosis and treatment for sexually transmitted diseases, and a licensed physician may diagnose, treat or prescribe for the treatment of sexually transmitted diseases in a minor age 14 or older without the knowledge or consent of the parent or guardian.”

N.H. Rev. Stat. Ann. § 141-C:15 provides that any person infected with a communicable disease, or reasonably suspected of being infected with a communicable disease, and whose continued presence among the citizenry poses a significant threat to health and life, shall be ordered by the commissioner to report to a health care provider or health care facility to undergo such treatment and care as the commissioner may deem necessary to eliminate the threat.

N.H. Code Admin. R. Ann. He-P 301.03 sets forth procedures for reporting communicable diseases, including HIV.

See [Appendix I](#) for information about the Title X Family Planning Program and minor consent for family planning, including STI/STD/HIV care.

Reportable, Communicable, Infectious Disease Care

N.H. Rev. Stat. Ann. § 141-C:15 provides that any person infected with a communicable disease, or reasonably suspected of being infected with a communicable disease, and whose continued presence among the citizenry poses a significant threat to health and life, shall be ordered by the commissioner to report to a health care provider or health care facility to undergo such treatment and care as the commissioner may deem necessary to eliminate the threat.

N.H. Code Admin. R. Ann. He-P 301.03 sets forth procedures for reporting communicable diseases, including HIV.

Substance Use Care

N.H. Rev. Stat. Ann. § 318-B:12-a provides that any minor 12 years of age or older may voluntarily submit himself to treatment for “drug dependency” as defined in *§ 318-B:1(IX)* or any problem related to the use of drugs at any municipal health department, state institution or facility, public or private hospital or clinic, any licensed physician or advanced practice registered nurse practicing within such nurse practitioner’s specialty, or other accredited state or local social welfare agency, without the consent of a parent, guardian, or any other person charged with the care or custody of said minor. Nothing in the statute shall be construed to mean that a minor of sound mind is legally incapable of consenting to medical treatment provided that such minor is of sufficient maturity to understand the nature of such treatment and the consequences thereof.

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

Medical Records

N.H. Rev. Stat. Ann. § 332-I:1 – I:13 contains provisions related to the protection and disclosure of individual’s confidential health care information. *N.H. Rev. Stat. Ann. § 332-I:1* provides that “patients” are entitled to a copy of their medical record held by a health care provider, upon request. The statute defines “health care provider” for this purpose.

Mental Health

N.H. Rev. Stat. Ann. § 135-C:19-a provides that treatment information regarding a seriously or chronically mentally ill person receiving services from a community mental health program or state facility, may be disclosed to a family member who lives with the person or provides direct care, after the facility has received the written consent of the patient or, if consent cannot be obtained, has notified the patient in writing as to what is being disclosed, the reason for its disclosure, and to whom.

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

Mental Health Therapist-Patient Privilege

The New Hampshire Supreme Court in *In re Berg*, 152 N.H. 658 (2005), interprets *N.H. Rev. Stat. Ann. § 330-A:32* to include a therapist-client privilege to cover minor clients, and the privilege may not always be waived by the minor client’s parent. (A father was not allowed to access his minor child’s psychotherapy notes in a custody dispute).

Sexually Transmitted Disease/HIV

N.H. Rev. Stat. Ann. § 141-C:18 provides that any minor age 14 or older may receive voluntary treatment for sexually transmitted diseases without the knowledge of the parent or guardian.

N.H. Rev. Stat. Ann. § 141-F:7 provides that HIV test results shall be disclosed by the physician or the person authorized by the physician to the person who was tested. Such person shall be provided with appropriate counseling at

the time of notification. If the person with an HIV positive test result is under age 18, the physician or the person authorized by the physician may disclose the test results to a parent or legal guardian.

Substance Use

N.H. Rev. Stat. Ann. § 318-B:12-a provides that when a minor consents to treatment for drug dependency, the treating facility, agency or individual shall keep records on the treatment given to minors as provided under this section in the usual and customary manner, but no reports or records or information contained therein shall be discoverable by the state in any criminal prosecution. No such reports or records shall be used for other than rehabilitation, research, or statistical and medical purposes, except upon the written consent of the person examined or treated.

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.

Constitution

Article 2-b of Part 1 of the Constitution, effective on December 5, 2018, provides: "An individual's right to live free from governmental intrusion in private or personal information is natural, essential, and inherent."

"Conversion Therapy" Ban

For up to date information on the status of statutes or case law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors in all 50 states and DC, see Movement Advancement Project's ["Equality Maps: Conversion 'Therapy' Laws."](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

N.H. Rev. Stat. Ann. § 153-A:18 provides that "no licensed emergency medical care provider or any health professional is subject to civil liability for failure to obtain consent in rendering emergency medical services to any person, regardless of age, where the person is unable to give consent for any reason, including minority status, and

there is no other person reasonably available who is legally authorized to consent for the care, and the provider has acted in good faith knowledge of facts negating consent."

Financial Responsibility

N.H. Rev. Stat. Ann. § 318-B:12-a provides that when minors voluntarily submit themselves to treatment for drug dependency or any problem related to the use of drugs without the consent of a parent or legal guardian, the parent or legal guardian is not liable for payment for services.

Gender Affirming Care

There are no restrictions on minors' access to gender affirming care in New Hampshire at this time.

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.

Resources

New Hampshire Statutes <https://www.gencourt.state.nh.us/rsa/search/default.aspx>

New Hampshire Regulations https://www.gencourt.state.nh.us/rules/about_rules/listagencies.aspx

NEW JERSEY

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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
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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
- S** Minor Parent
- Minor in State Custody
- S** Pregnant Minor

Other

- S** Anatomical Gift/Donation
- S** Constitution
- S** "Conversion Therapy," Ban⁴
- Gender Affirming Care
- S** Minor Parent, Consent for Child's Care
- S** Reproductive Freedom
- S** Shield Laws

Key

State law found⁵

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

Emancipation

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

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

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

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

Minor Marriage

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

Consent to Health Care

Consent for healthcare refers to granting permission for a healthcare service. A healthcare provider generally must obtain consent before providing care. Adults typically consent to their own healthcare, except in cases of legal incapacity. State and federal laws and court decisions help establish who has the legal authority to provide consent on behalf of minors. Typically, federal and state law require parent or guardian consent for a minor's care. However, the laws in every state include exceptions that allow or require others to consent, in addition to or instead of a parent or guardian. These exceptions include exceptions that allow minors to consent to some or all health care based on the minor's “status” (situation in life) and exceptions that allow minors to consent to certain types of care based on the services sought. Sometimes, these laws are written in a way that allows providers to offer services without parental consent; sometimes, they are written in a way that explicitly gives minors the authority to consent. Federal law also allows minors to consent to specific care in some cases. See **Appendix B** for more on consent including the important role of parents and other adults in minors' healthcare.

The following sections summarize the minor consent laws in the state:

Minor Consent—Minor Status**Married Minor**

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

Minor Parent

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

Pregnant Minor

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

Minor Consent—Services**Abortion**

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

but have not been repealed. In 2022, the state enacted *N.J. Stat. Ann. § 10:7-2*, which provides: “Every individual present in the State, including, but not limited to, an individual who is under State control or supervision, shall have the fundamental right to: choose or refuse contraception or sterilization; and choose whether to carry a pregnancy, to give birth, or to terminate a pregnancy. The New Jersey Constitution recognizes the fundamental nature of the right to reproductive choice, including the right to access contraception, to terminate a pregnancy, and to carry a pregnancy to term, shall not be abridged by any law, rule, regulation, ordinance, or order issued by any State, county, or local governmental authority. Any law, rule, regulation, ordinance, or order, in effect on or adopted after the effective date of this act¹, that is determined to have the effect of limiting the constitutional right to freedom of reproductive choice and that does not conform with the provisions and the express or implied purposes of this act, shall be deemed invalid and shall have no force or effect.” *For up to date information on the status of abortion restrictions and protections, including shield laws, in New Jersey, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).*

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

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

Family Planning/ Contraceptives

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

See **Appendix I** for information about the Title X Family Planning Program and minor consent for family planning, including contraception services. See **Appendix C** for discussion of contraception and the U.S. Constitution.

Outpatient Mental Health Care

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

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

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

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

Pregnancy-Related Care

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

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

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

Sexual Assault Care

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

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

Sexually Transmitted Infection/Disease (STI/STD)

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

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

Substance Use Care

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

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

Confidentiality & Disclosure

Federal and state laws determine the privacy and confidentiality of medical and health information. Different laws may apply depending on the health services provided, the source of funding, the location of care, the type of provider, and the characteristics of the patient.

One law with overarching importance is the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, a federal regulation that protects the privacy of patient health information held by health care providers who transmit certain information electronically and other “covered entities.” As a general rule, HIPAA prohibits healthcare providers from disclosing protected health information without a signed authorization. HIPAA specifies who must sign an authorization to release information. When minors have consented for their own care, HIPAA says the minors usually must sign the release. HIPAA includes exceptions that allow or require a provider to disclose protected information without an authorization in some circumstances, such as to meet state child abuse reporting requirements. HIPAA also addresses when parents and guardians may access a minor’s health information: It explains how this HIPAA rule intersects with state law and other federal laws regarding parent access, and includes rules for what to do about parent access when state law is silent, and for authorized limitations on access in some situations.

See **Appendix H** for a detailed discussion of HIPAA. Other appendices address other important federal health privacy laws that may apply in addition to, or instead of, HIPAA. See **Appendix I** (Title X, family planning), **Appendix J** (Part 2, substance use), **Appendix K** (FERPA, education records), **Appendix L** (insurance and billing), and **Appendix M** (21st Century Cures Act Information Blocking, EHI).

The following sections summarize selected state laws related to confidentiality, access to records, and disclosure to parents/guardians:

Confidentiality/Access to Records

AIDS/HIV

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

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

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

Health Maintenance Organizations

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

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

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

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

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

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

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

Disclosure of Health Information to Parents/Guardians

All Minor Consent Services

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

Behavioral Health/Mental Health

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

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

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

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

Sexual Assault

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

Substance Use

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

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

HIPAA rules relevant to disclosure to parents/guardians

See **Appendix H** for information about minors' access to and control of their medical information under HIPAA when they have consented to their own care, the HIPAA rule when state law is silent as to parent access, and the HIPAA rule authorizing providers to limit access to records in certain circumstances.

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

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

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

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

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

Insurance Claims/ Billing

See **Appendix L** for information about confidentiality protection in the billing and insurance claims process under the HIPAA Privacy Rule.

Other

This section summarizes a range of laws that may not explicitly address minor consent or disclosure of information but that health care providers often have questions about when minors seek care, especially when they seek care on their own.

Anatomical Gift/Donation

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

Constitution

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

"Conversion Therapy," Ban

For up to date information on the status of statutes or case law that ban conversion therapy for minors, or prohibit state

entities from banning conversion therapy for minors in all 50 states and DC, see [Movement Advancement Project's "Equality Maps: Conversion "Therapy" Laws."](#) These laws are changing rapidly so consultation with counsel is essential.

Gender Affirming Care

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

For up to date information on the status of protections and restrictions on gender affirming care for minors, including shield laws, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth"](#) These laws are changing rapidly so consultation with counsel is essential.

Minor Parent, Consent for Child's Care

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

Reproductive Freedom

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

Shield Laws

New Jersey has passed a series of laws to provide protections for health care providers against disciplinary actions, adverse licensing actions, and civil actions both in state and from out of state based solely on the provision, assistance, or support for reproductive health care services that are permitted under the laws of the state and were provided in accordance with the applicable standard of

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

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

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

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

Resources

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

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

NEW MEXICO

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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
- 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
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Minor Consent to Health Care—Minor's Status

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

Other

- S** "Conversion Therapy," Ban⁴
- S** Emergency Care
- S** Financial Responsibility
- S** Gender Affirming Care, Protections
- S** Good Faith Reliance/Immunity from Prosecution
- S** Parent Consent
- S** Reproductive Freedom
- S** Right to Refuse Life Sustaining Treatment
- S** Shield Laws

Key

State law found⁵

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.M. Stat. Ann. § 28-6-1 provides that the age of majority is 18.

Emancipation

N.M. Stat. Ann. § 32A-21-3 provides that an emancipated minor is any person age 16 or older who has entered a valid marriage, whether or not they are now divorced; is on active duty with the Armed Forces; or has received a declaration of emancipation. *N.M. Stat. Ann. §§ 32A-21-1 - 32A-21-7* set forth the criteria and procedures for a minor to obtain a declaration of emancipation from the court. *N.M. Stat. Ann. § 32A-21-4* provides that a minor 16 or older may be declared emancipated if the minor is willingly living separate and apart from their parents, guardian or custodian, is managing their own financial affairs and the court finds it in the minor's best interest.

N.M. Stat. Ann. § 24-7A-1 provides that for the purposes of the Uniform Health Care Decisions Act, emancipated minor is any person age 16 or older who has entered a valid marriage, whether or not they are now divorced; is on active duty with the Armed Forces; or has received a declaration of emancipation.

Minor Marriage

N.M. Stat. Ann. § 32A-21-3 provides that a married minor is emancipated. *N.M. Stat. Ann. § 40-1-6* provides that an unemancipated minor age 16 or 17 years may only marry with the written consent of both parents or the consent of one parent and a court order for good cause shown; a minor under age 16 years cannot marry unless they obtain a court order "upon request of a parent or guardian of the person in settlement of proceedings to compel support and establish parentage, or where an applicant for the marriage license is pregnant" and obtains a court order.

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.M. Stat. Ann. § 24-10-1 provides that notwithstanding any other law, any emancipated minor may consent for hospital, medical, and surgical care. The consent of the parent is not necessary.

N.M. Stat. Ann. § 32A-21-5 provides that an emancipated minor may consent for medical, dental, or psychiatric care without parental consent, knowledge or liability.

For purposes of the Uniform Health Care Decisions Act, *N.M. Stat. Ann. § 24-7A-2* provides that emancipated minors have the right to make their own health care decisions and

may give an individual written or oral instruction. If the instruction is oral, it must be made by personally informing a health care provider. An emancipated minor may execute a power of attorney for health care, which may authorize the agent to make any health care decision the principal could have made while having capacity.

Married Minor

N.M. Stat. Ann. § 24-10-1 provides that notwithstanding any other law, any minor who is or has been married may consent for hospital, medical or surgical care. Subsequent annulment or divorce shall not deprive minor of ability to consent.

Minor in Armed Forces

N.M. Stat. Ann. § 32A-21-3 provides that a minor who is on active duty with the U.S. Armed Forces is emancipated. *N.M. Stat. Ann. § 24-10-1* provides that notwithstanding any other law, any emancipated minor may consent for hospital, medical, and surgical care. The consent of the parent is not necessary.

N.M. Stat. Ann. § 32A-21-5 provides that an emancipated minor may consent for medical, dental, or psychiatric care without parental consent, knowledge or liability.

Minor Living Apart from Parent/Guardian

N.M. Stat. Ann. § 24-7A-6.2 provides that an unemancipated minor age 14 years or older with the capacity to consent may consent to “medically necessary health care” if the minor is living apart from their parents or legal guardian.

“Medically necessary health care” means “clinical and rehabilitative, physical, mental or behavioral health services that are: (1) essential to prevent, diagnose or treat medical conditions or that are essential to enable an unemancipated minor to attain, maintain or regain functional capacity; (2) delivered in the amount and setting with the duration and scope that is clinically appropriate to the specific physical, mental and behavioral health-care needs of the minor; (3) provided within professionally accepted standards of practice and national guidelines; and (4) required to meet the physical, mental and behavioral health needs of the minor, but not primarily required for convenience of the minor, health-care provider or payer.”

Minor Parent

N.M. Stat. Ann. § 24-7A-6.2 provides that an unemancipated minor age 14 years or older with the capacity to consent may consent to “medically necessary health care,” provided that the minor is the parent of a child.

“Medically necessary health care” means “clinical and rehabilitative, physical, mental or behavioral health services that are: (1) essential to prevent, diagnose or treat medical conditions or that are essential to enable an unemancipated minor to attain, maintain or regain functional capacity; (2) delivered in the amount and setting with the duration and scope that is clinically appropriate to the specific physical, mental and behavioral health-care needs of the minor; (3) provided within professionally accepted standards of practice and national guidelines; and (4) required to meet the physical, mental and behavioral health needs of the minor, but not primarily required for convenience of the minor, health-care provider or payer.”

Minor Consent—Services

Abortion

Abortion is legal and protected in New Mexico. *N.M. Stat. Ann. § 30-5-1*, a pre-Roe v. Wade ban, was repealed by

S.B. 10, 55th Leg., Reg. Sess. (N.M. 2021), although some restrictions remain on the books. *N.M. Stat. Ann. §§ 24-34-1 – 23-34-5*, the “Reproductive and Gender-Affirming Health Care Freedom Act,” was enacted in 2023. *N.M. Stat. Ann. § 24-34-3* provides that “[A] public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not deny, restrict or interfere with a person’s ability to access or provide reproductive health care or gender-affirming health care within the medical standard of care.” *N.M. Stat. Ann. § 24-34-2* defines key terms for this purpose. For up to date information on the status of abortion restrictions and protections in New Mexico, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

Minors may consent to abortion in New Mexico. *N.M. Stat. Ann. § 30-5-1*, which had required parental consent for a minor’s abortion was repealed by *S.B. 10, 55th Leg., Reg. Sess. (N.M. 2021)*. Even prior to 2021, in *Op. Att’y Gen. No. 90-19 (Oct. 3, 1990)*, the New Mexico Attorney General had determined that the statute’s requirement of parental consent was unenforceable because it failed to provide the constitutionally required judicial bypass procedure which would allow a minor to seek court authorization for an abortion without first involving her parents.

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.M. Stat. Ann. § 24-8-5 provides that neither the state nor local government nor any health facility furnishing family planning services shall subject any person to any standing or requirement as a prerequisite to the receipt of any requested family planning service, with limited exceptions related to referrals and payment or when a requirement is imposed by law or regulation as a prerequisite to the receipt of family planning services.

N.M. Stat. Ann. § 24-34-3 provides that “[a] public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not deny, restrict or interfere with a person’s ability to access or provide reproductive health care or gender-affirming health care within the medical standard of care.” *N.M. Stat. Ann. § 24-34-2* defines “reproductive health care” to include “psychological, behavioral, surgical, pharmaceutical and medical care, services and supplies that relate to the human reproductive system, including services related to preventing a pregnancy.”

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.M. Stat. Ann. § 32A-6A-14 provides that the informed consent of the child's legal custodian is necessary before a child under age 14 undergoes "treatment or habilitation" including psychotherapy or psychotropic medications. However, a child under age 14 may initiate and consent to an initial assessment with a clinician and for "medically necessary early intervention" verbal therapy services. The clinician may conduct an initial assessment and provide medically necessary early intervention service limited to verbal therapy with or without the consent of a legal guardian if such service will not extend beyond two calendar weeks. The purpose of the initial assessment is to allow a clinician to interview the minor and determine what, if any, action needs to be taken to ensure appropriate mental health or habilitation services are provided to the minor. *N.M. Stat. Ann. § 32A-6A-14* defines "habilitation," "treatment" and "medically necessary" for this purpose.

N.M. Stat. Ann. § 32A-6A-15 provides that a child age 14 or older is presumed to have capacity to consent, without the consent of a legal custodian, to individual psychotherapy, group psychotherapy, guidance counseling, case management, behavioral therapy, family therapy, counseling, substance abuse treatment or other forms of verbal treatment that do not include aversive interventions. *N.M. Stat. Ann. § 32A-6A-16* provides that the determination that a child age 14 or older lacks or has recovered capacity shall be made by two clinicians, one of whom shall be a person who works with children in the ordinary course of that clinician's practice; that a minor who is age 14 or older shall not be determined to lack capacity solely on the basis that the child chooses not to accept the treatment recommended by the mental health or developmental disabilities professional; and that such minor may contest a determination that they lack capacity through a process described in the statute.

N.M. Stat. Ann. § 32A-6A-14 defines "capacity" for this purpose as "a child's ability to: (1) understand and appreciate the nature and consequences of proposed health care, including its significant benefits, risks and alternatives to proposed health care; and (2) make and communicate an informed health care decision."

N.M. Stat. Ann. § 32A-6A-15 provides that a child age 14 or older may be administered psychotropic medication with the minor's informed consent, but the clinician shall inform the legal custodian of the child age 14 or older.

N.M. Stat. Ann. § 32A-6A-16 specifies that if a minor age 14 or older is found not to have capacity to consent, a legal custodian may consent if the child does not object.

Pregnancy-Related Care

N.M. Stat. Ann. § 24-34-3 provides that "[a] public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not deny, restrict or interfere with a person's ability to access or

provide reproductive health care or gender-affirming health care within the medical standard of care." *N.M. Stat. Ann. § 24-34-2* defines "reproductive health care" to include "psychological, behavioral, surgical, pharmaceutical and medical care, services and supplies that relate to the human reproductive system, including services related to preventing a pregnancy; abortion...[and] prenatal, birth, perinatal and postpartum health."

N.M. Stat. Ann. § 24-1-13 provides that any person, regardless of age, may consent for an examination and diagnosis by a licensed physician for pregnancy.

N.M. Stat. Ann. § 24-1-13.1 provides that a health care provider "shall have the authority, within the limits of his or her license, to provide prenatal, delivery and postnatal care to a female minor, and a female minor shall have the capacity to consent for prenatal, delivery and postnatal care by a licensed health care provider."

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

Sexually Transmitted Infection/Disease/HIV Care

N.M. Stat. Ann. § 24-1-9 provides that any person regardless of age has the capacity to consent to an examination, preventive care and treatment by a licensed health care provider for any sexually transmitted infection.

N.M. Stat. Ann. § 24-1-9.3 provides that a positive test result for a sexually transmitted disease shall not be revealed to the person upon whom the test was performed without the person performing the test, or the health facility at which the test was performed, providing or referring that person for individual counseling. Counseling shall include information about the meaning of the test results, the possible need for additional testing, the availability of appropriate health care services, including mental health care, social and support services, and the benefits of locating and counseling any individual by whom the infected person may have been exposed to the sexually transmitted disease and any individual whom the infected person may have exposed to the sexually transmitted disease.

N.M. Stat. Ann. § 24-2B-3 provides that a minor has the capacity to give informed consent for an HIV test.

N.M. Stat. Ann. § 24-2B-4 provides that a positive test result [for HIV] shall not be revealed to the subject of the test without the health care provider referring the test subject for individual counseling about the meaning of the test results, the need for additional testing, the availability of health care services (including mental health care), and the benefits of informing other exposed parties.

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.M. Stat. Ann. § 32A-6A-15 provides that a child age 14 or older is presumed to have capacity to consent to substance abuse treatment without the consent of a legal custodian.

N.M. Stat. Ann. § 32A-6A-16 provides that the determination that a child age 14 or older lacks or has recovered capacity shall be made by two clinicians, one of whom shall be a person who works with children in the ordinary course of that clinician's practice; that a minor who is age 14 or older shall not be determined to lack capacity solely on the basis that the child chooses not to accept the treatment

recommended by the mental health or developmental disabilities professional; and that such minor may contest a determination that they lack capacity through a process described in the statute.

N.M. Stat. Ann. § 32A-6A-14 defines "capacity" for this purpose as "a child's ability to: (1) understand and appreciate the nature and consequences of proposed health care, including its significant benefits, risks and alternatives to proposed health care; and (2) make and communicate an informed health care decision."

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

The New Mexico Administrative Code contains implementing regulations for the federal HIPAA Privacy Rule. See *N.M. Admin. Code* §§ 8.8.5.3 – 8.8.5.19.

N.M. Admin. Code § 8.8.5.7 provides that a minor's "personal representative" is their parent, guardian, or other person acting *in loco parentis* except where the minor is authorized by law to act on their own behalf or via a court approval or where the parent, guardian or person acting *in loco parentis* has assented to an agreement of confidentiality between the provider and the minor. *N.M. Admin. Code* § 8.8.5.12 provides for the authority and limitations on authority of a personal representative.

N.M. Admin. Code § 8.8.5.10 provides that individuals and their personal representatives generally have a right to inspect protected health information but provides for limitations on this right in some circumstances. *N.M. Admin. Code* § 8.8.5.11 provides for authorized uses and disclosures of protected health information.

For purposes of the Uniform Health Care Decisions Act, *N. M. Stat. Ann. § 24-7A-8* provides that unless otherwise specified in an advance health-care directive, a person then authorized to make health-care decisions for a patient has the same rights as the patient to request, receive, examine, copy and consent to the disclosure of medical or any other health-care information.

See [Appendix H](#) for information about minors' rights under the HIPAA Privacy Rule to access their own health records when they are authorized to consent for 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

Emancipated Minor

N.M. Stat. Ann. § 32A-21-5 provides that an emancipated minor may consent for medical, dental, or psychiatric care without parental consent, knowledge or liability.

Psychotropic Medication

N.M. Stat. Ann. § 32A-6A-15 provides that when a minor age 14 years or older gives informed consent for the administration of psychotropic medication, the clinician shall inform the legal custodian of the child age 14 or older. The section also provides that a "clinician or other mental health and developmental disabilities professional shall promote the healthy involvement of a child's legal custodians and family members in developing and implementing the child's treatment plan, including appropriate participation in treatment for children fourteen years of age or older. However, nothing in this section shall limit the rights of a child fourteen years of age or older to

consent to services and to consent to disclosure of mental health records."

Sexually Transmitted Disease

N.M. Stat. Ann. § 24-1-9.4 provides that except in situations of the testing of criminal sex offenders, the identity of a person tested for a sexually transmitted disease or the results of the test shall not be disclosed in a manner that permits identification of the subject of the test, except to the subject of the test or the subject's legally authorized representative, guardian or legal custodian. The statute also contains restrictions on redisclosure.

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.

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 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.M. Stat. Ann. § 24-10-2 provides that, notwithstanding any other law, in cases of emergency when a minor needs

immediate hospitalization, medical attention, or surgery and the parents cannot be located after reasonable efforts, any person standing in lieu of the parents may consent for the emergency attention.

Financial Responsibility

N.M. Stat. Ann. § 24-7A-6.2 provides that the parent or guardian of an unemancipated minor is not liable for payment for medically necessary health care services rendered to the minor for which the minor consented, when the minor is age 14 or older and is either living apart from their parents or is the parent of a child, unless the parent or guardian consented to those services. A parent or legal guardian shall still be held liable for payment for emergency health care provided to a minor.

N.M. Stat. Ann. § 32A-21-5 provides that an emancipated minor may consent for medical, dental, or psychiatric care without parental consent, knowledge or liability.

Gender Affirming Care, Protections

N.M. Stat. Ann. §§ 24-34-1 – 23-34-5, the “Reproductive and Gender-Affirming Health Care Freedom Act,” was enacted in 2023. *N.M. Stat. Ann. § 24-34-3* provides that “[A] public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not deny, restrict or interfere with a person’s ability to access or provide reproductive health care or gender-affirming health care within the medical standard of care.” *N.M. Stat. Ann. § 24-34-2* defines “gender-affirming care” as “psychological, behavioral, surgical, pharmaceutical and medical care, services and supplies provided to support a person’s gender identity” and defines “public body” as “a state or local government, an advisory board, a commission, an agency or an entity created by the constitution of New Mexico or any branch of government that receives public funding, including political subdivisions, special tax districts, school districts and institutions of higher education.”

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.

Good Faith Reliance/Immunity from Liability

N.M. Stat. Ann. § 24-7A-6.2 provides that a health care provider or institution shall not be held liable for reasonably relying on statements made by an unemancipated minor that the minor is eligible to give consent pursuant to *N.M. Stat. Ann. § 24-7A-6.2(A)* (i.e. that the minor is age 14 or older and living apart from his or her parents or is the parent of a child).

Parent Consent

As part of New Mexico’s Uniform Health-Care Decisions Act, *N.M. Stat. Ann. § 24-7A-6.1* provides that except as otherwise provided by law, a parent or guardian of an

unemancipated minor may make that minor’s health-care decisions.

Reproductive Freedom

N.M. Stat. Ann. §§ 24-34-1 – 23-34-5, the “Reproductive and Gender-Affirming Health Care Freedom Act,” was enacted in 2023. *N.M. Stat. Ann. § 24-34-3* provides that “[A] public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not deny, restrict or interfere with a person’s ability to access or provide reproductive health care or gender-affirming health care within the medical standard of care.” *N.M. Stat. Ann. § 24-34-2* defines “reproductive health care” for this purpose as “psychological, behavioral, surgical, pharmaceutical and medical care, services and supplies that relate to the human reproductive system, including services related to: preventing a pregnancy; abortion; managing a pregnancy loss; prenatal, birth, perinatal and postpartum health; managing perimenopause and menopause; managing fertility; treating cancers of the reproductive system; or preventing or treating sexually transmitted infections” and defines “public body” as “a state or local government, an advisory board, a commission, an agency or an entity created by the constitution of New Mexico or any branch of government that receives public funding, including political subdivisions, special tax districts, school districts and institutions of higher education.”

Right to Refuse Life Sustaining Treatment

As part of New Mexico’s Uniform Health-Care Decisions Act, *N.M. Stat. Ann. § 24-7A-6.1* provides that if an unemancipated minor has capacity sufficient to understand the nature of that unemancipated minor’s medical condition, the risks and benefits of treatment and the contemplated decision to withhold or withdraw life-sustaining treatment, that unemancipated minor shall have the authority to withhold or withdraw life-sustaining treatment.

Shield Laws

New Mexico enacted *N.M. Stat. Ann. §§ 24-34-1 – 23-34-5*, the “Reproductive and Gender-Affirming Health Care Freedom Act,” in 2023 which includes protections designed to shield New Mexico health care providers from civil and criminal penalty when they legally provide reproductive health services and gender affirming care in the state and protects sensitive information from being disclosed related to provision of reproductive health services. The Act include definitions of key terms at *N.M. Stat. Ann. § 24-34-2*.

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

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

Resources

New Mexico Statutes https://nmonesource.com/nmos/nmsa/en/nav_date.do

New Mexico Code of Regulations https://nmonesource.com/nmos/nmac/en/nav_date.do

NEW YORK

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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

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- S** Abortion³
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- S** **F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- S** **F** Pregnancy-Related Care
- Reportable, Communicable, Infectious Disease Care
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Confidentiality and Disclosure

- S** **F** Confidentiality/Access to Records
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Other

- S** "Conversion Therapy," Ban⁴
- S** Emergency Care
- S** Gender Affirming Care
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Parent, Consent for Child's Care
- S** Shield Laws

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.Y. C.P.L.R. § 105, N.Y. Dom. Rel. Law § 2, and N.Y. Gen. Oblig. Law § 1-202 provide, for various purposes, that the age of majority is 18 years.

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; *Bach v. Long Island Jewish Hospital*, 49 Misc. 2d 207 (1966) recognized that a specific status, such as marriage,

can emancipate a minor, and state law does recognize emancipation including the right of emancipated minors to consent to certain health care, as provided in *N.Y. Mental Hyg. Law § 33.21*.

Minor Marriage

N.Y. Dom. Rel. Law § 15-a prohibits marriage with anyone under the age of 18 years.

Consent to Health Care

Consent for healthcare refers to granting permission for a healthcare service. A healthcare provider generally must obtain consent before providing care. Adults typically consent to their own healthcare, except in cases of legal incapacity. State and federal laws and court decisions help establish who has the legal authority to provide consent on behalf of minors. Typically, federal and state law require parent or guardian consent for a minor's care. However, the laws in every state include exceptions that allow or require others to consent, in addition to or instead of a parent or guardian. These exceptions include exceptions that allow minors to consent to some or all health care based on the minor's "status" (situation in life) and exceptions that allow minors to consent to certain types of care based on the services sought. Sometimes, these laws are written in a way that allows providers to offer services without parental consent; sometimes, they are written in a way that explicitly gives minors the authority to consent. Federal law also allows minors to consent to specific care in some cases. See **Appendix B** for more on consent including the important role of parents and other adults in minors' healthcare.

The following sections summarize the minor consent laws in the state:

Minor Consent—Minor Status**Married Minor**

N.Y. Pub. Health Law § 2504 provides that any person who has married may consent for medical, dental, health, and hospital services for themselves and the consent of no other person is necessary.

Minor Living Apart from Parent/Guardian

N.Y. Pub. Health Law § 2504 provides that a minor who is a "homeless youth", or who receives services at an approved "runaway and homeless youth crisis services program" or a "transitional independent living support program" may consent for medical, dental, health, and hospital services for themselves and the consent of no other person is necessary. "Homeless youth" is defined by *N.Y. Exec. § 532-a* and includes "a person under the age of eighteen who is in need of services and is without a place of shelter where supervision and care are available." *N.Y. Exec. § 532-a* defines "runaway and homeless youth program" and "transitional living program" for this purpose.

Minor Parent

N.Y. Pub. Health Law § 2504 provides that any person who is the parent of a child may consent for medical, dental, health, and hospital services for themselves and the consent of no other person is necessary.

State Custody

N.Y. Corrections Law § 140 and N.Y. Penal Law § 70.20 provide that when a minor is sentenced to imprisonment and committed to the custody of the Department of Corrections and Community Supervision with no medical consent obtained from parents prior to commitment or transfer, the commitment order shall be deemed to grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment. However, a parent or guardian may make a motion to the court objecting to the treatment being provided to the incarcerated minor. *N.Y. Corrections Law § 140* defines "routine" care for this purpose.

N.Y. Pub. Health Law § 2504-a provides that a “healthcare practitioner” may administer immunization against hepatitis B to a minor in a state or local correctional facility, without the consent or knowledge of a parent or guardian, if the minor has “capacity to consent” and consents to the immunization. The law defines the terms “healthcare practitioner” and “capacity to consent” for this purpose.

Minor Consent—Services

Abortion

Abortion is legal and protected in New York. *N.Y. Pub. Health Law § 2599-aa* provides that “comprehensive reproductive health care is a fundamental component of every individual’s health, privacy and equality” and “every individual who becomes pregnant has the fundamental right to choose to carry the pregnancy to term, to give birth to a child, or to have an abortion” as provided in the state’s Reproductive Health Act. *For up to date information on the status of abortion protections and restrictions in New York, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).*

To the extent abortion is legally permitted, minors may obtain an abortion. Minors may consent to abortion and neither parental notice or consent is required.

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.Y. Pub. Health Law § 2599-aa provides that “comprehensive reproductive health care is a fundamental component of every individual’s health, privacy and equality” and “every individual has the fundamental right to choose or refuse contraception or sterilization.” In *Carey v. Population Services*, 97 S. Ct. 2010 (1977), the U.S. Supreme Court held unconstitutional a New York law that limited the sale of non-prescriptions to minors and determined that minors’ access to contraceptives cannot be restricted without a compelling reason.

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.Y. Mental Hyg. Law § 33.21 provides that a “mental health practitioner” may provide “outpatient mental health services” to a minor voluntarily seeking such services if the practitioner determines that:

1. the minor is knowingly and voluntarily seeking such services: and
2. provision of such services is clinically indicated and necessary to the minor’s well-being; and
3. a parent or guardian is not “reasonably available”; or requiring parental or guardian consent or involvement would have a detrimental effect on the course of outpatient treatment or a parent or guardian has refused to give such consent and a physician determines that the treatment is necessary and in the best interests of the minor.

A practitioner may provide a minor voluntarily seeking outpatient services an initial interview without parental or guardian consent or involvement to determine if these criteria are present. The mental health practitioner must document the reasons for their determinations in the minor’s record, along with a written statement signed by the minor indicating that they are voluntarily seeking services. The statute provides definitions for “outpatient mental health services,” “mental health practitioner,” and “reasonably available.”

N.Y. Mental Hyg. Law § 33.21 provides that a minor 16 years of age and older may consent to be administered psychotropic medications without the consent of a parent or guardian in certain circumstances. The statute describes these circumstances and requires the clinician to fully document them in the minor’s clinical record.

Pregnancy-Related Care

N.Y. Pub. Health Law § 2504 provides that any pregnant person may consent for medical, dental, health and hospital services relating to prenatal care.

N.Y. Pub. Health Law § 2599-aa provides that “comprehensive reproductive health care is a fundamental component of every individual’s health, privacy and equality” and “every individual who becomes pregnant has the fundamental right to choose to carry the pregnancy to term, to give birth to a child, or to have an abortion” as provided in the state’s *Reproductive Health Act*.

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

Sexual Assault Care

N.Y. Pub. Health Law § 2805-i and *10 N.Y. Admin. Code § 405.9(c)* provide that hospitals must provide patients, including minor patients, who are suspected or confirmed victims of sexual offenses a range of services, including offering and making available appropriate HIV post-exposure treatment therapies and “upon request, prophylaxis against pregnancy, sexually transmitted diseases, hepatitis B and HIV, as medically indicated.”

Sexually Transmitted Infection/Disease/HIV Care

N.Y. Pub. Health Law § 2305 provides that a licensed physician, or hospital physician may diagnose, treat or prescribe for a minor if the minor is infected with or been exposed to a sexually transmitted disease.

10 N.Y. Admin. Code § 23.4 provides that in addition to the services that may be provided to minors under *N.Y. Pub. Health Law § 2305*, health care practitioners as authorized by their scope of practice may also render medical care related to other sexually transmitted diseases to minors without the consent or knowledge of the parent or guardian. This regulation allows minors to consent to antiretroviral medication for treatment and prevention of HIV, to HIV-related preventive services, such as prophylactic medication, and the human papillomavirus (HPV) vaccine to minors without parent or guardian consent. New York State Department of Health, [Letter to Health Care Providers – Dear Colleague: Minor Consent to HIV and HPV Prevention and Treatment](#), (Dec. 19, 2017).

N.Y. Pub. Health Law § 2781 provides that no person shall order the performance of an HIV test without first orally advising the individual that an HIV-related test is being performed. When the individual lacks capacity to consent, this advisement goes to the person authorized to consent on the individual's behalf. No test can be performed over the objection of the individual or authorized person. *N.Y. Pub. Health Law § 2781* defines “capacity to consent” for this purpose to mean the individual’s ability to understand

and appreciate the nature and consequences of a proposed health service, treatment or procedure and to make an informed decision, without regard to the individual’s age.

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.Y. Mental Hyg. Law § 22.11 provides that parent or guardian involvement and consent is required for “inpatient, residential or outpatient” treatment for “chemical dependence;” however, minors may receive services without parent or guardian involvement, if, in the judgment of a physician, parent or guardian involvement and consent would have a detrimental effect on the course of treatment of a minor voluntarily seeking treatment for chemical dependence, or if a parent or guardian refuses to consent and the physician believes treatment is necessary to best interests of the minor. Additionally, parent or guardian consent is not required if the provider cannot locate the parent or guardian after taking reasonable measures to do so, or if the parent or guardian refuses or fails to communicate with the provider within a reasonable time. In all cases, the physician or qualified health professional must document in the minor’s record the reasons why parent or guardian consent or involvement did not occur. Parental consent or involvement is not required for a married minor, a minor parent, or an emancipated minor.

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

Chemical Dependence Services

N.Y. Mental Hyg. Law § 22.05 provides that “all records of identity, diagnosis, prognosis, or treatment in connection with a person’s receipt of chemical dependence services shall be confidential and shall be released only in accordance with applicable provisions of the public health law, any other state law, federal law and duly executed court orders.”

Emergency Care

N.Y. Pub. Health Law § 18 provides that when a parent or guardian provides consent to treatment or where treatment was provided without consent in an emergency, the parent or guardian normally has the right to inspect patient information concerning that care and treatment after submitting a written request, with several exceptions:

- The parent or guardian is not entitled to inspect or make copies of any patient information concerning the care and treatment of the minor where the health care provider determines that access to the information requested by the parent or guardian would have a detrimental effect on the provider’s professional relationship with the minor, or on the care and treatment of the minor, or on the minor’s relationship with their parents or guardian.
- The health provider also may deny access to all or part of a minor’s information requested by a parent or guardian and may grant access to a prepared summary of the information if the provider determines that the request can reasonably be expected to cause substantial and identifiable harm to the subject or others which would outweigh the qualified person’s right of access. The statute contains a list of factors the provider must consider.
- A minor over the age of 12 may be notified of a request by their parent or guardian to review their patient information; and if the minor objects to disclosure, the provider may deny the request.

N.Y. Pub. Health Law § 18 does not authorize parents or guardians to inspect records related to services to which the minor consented.

HIV Information

N.Y. Pub. Health Law § 2782 protects the confidentiality and limits disclosure of HIV related information.

Mental Health

N.Y. Mental Hyg. Law § 33.13 protects the confidentiality and limits disclosure of clinical records held at a facility licensed or operated by the office of mental health or the office for people with developmental disabilities (with those terms defined in the statute) except as described in the statute.

Minor Consent Services

10 N.Y. Admin. Code. § 300.5 prohibits a “qualified entity participant” from disclosing minor consent patient information to the minor’s parent or guardian without the minor’s authorization. The regulation describes “minor consent patient information” for this purpose. *10 NYCRR § 300* defines key terms including “qualified entity participant” and “SHIN-NY.”

10 N.Y. Admin. Code. § 300.5 allows a minor’s parent or guardian to provide authorization for a qualified entity participant to access a minor’s “minor consent patient information” through the Statewide Health Information Network for New York (SHIN-NY), unless federal or other law requires minor authorization for this purpose.

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

Minor Consent Services

N.Y. Pub. Health Law § 18 does not authorize parents or guardians to inspect records related to services to which the minor consented.

10 N.Y. Admin. Code § 300.5 provides that in no event may a “qualified entity participant” disclose “minor consent patient information” from the Statewide Health Information Network for New York to the minor’s parent or guardian without the minor’s authorization. “Minor consent patient information” includes, but is not limited to, patient information concerning:

- Diagnosis, treatment or prescription for sexually transmitted disease;
- Records related to the performance of an abortion;
- Medical, dental, health and hospital services relating to prenatal care;

- Outpatient mental health services;
- Substance abuse treatment;
- Any patient who is the parent of a child, has married, or is an otherwise legally emancipated minor;
- Treatment that a minor has a Constitutional right to receive without a parent's or guardian's permission as determined by courts of competent jurisdiction;
- Treatment for a minor who is a victim of sexual assault as authorized by *N.Y. Pub. Health Law § 2805i*; and
- Emergency care provided without parent consent as authorized by *N.Y. Pub. Health Law § 2504*.

N.Y. Pub. Health Law § 17 provides that when a provider receives a written request from a parent to share a minor's records and information with another provider, records concerning the treatment of a minor patient for sexually transmitted disease or abortion may not be released or in any manner be made available to a parent or guardian.

N.Y. Pub. Health Law § 2782 provides that generally, no person who obtains confidential HIV related information in the course of providing any health or social service or pursuant to a release of confidential HIV related information may disclose or be compelled to disclose such information, except to the patient or if the patient lacks capacity to consent, to the person authorized to consent to health care for the patient. *N.Y. Pub. Health Law § 2780* provides that for purposes of disclosure of HIV or AIDS information, capacity to consent means an individual's ability, determined without regard to the individual's age, to understand and appreciate the nature and consequences of a proposed disclosure of confidential HIV-related information, and to make an informed decision concerning disclosure.

Parent Consent/Emergency Services

N.Y. Pub. Health Law § 18 provides that when a parent or guardian provides consent to treatment for a minor, or where treatment was provided without consent in an emergency, the parent or guardian normally has the right to inspect patient information concerning that care and treatment after submitting a written request, except:

- The parent or guardian is not entitled to inspect or make copies of any patient information concerning the care and treatment of the minor where the health care provider determines that access to the information requested by the parent or guardian would have a detrimental effect on the provider's professional relationship with the minor, or on the care and treatment of the minor, or on the minor's relationship with their parents or guardian.
- The health provider also may deny access to all or part of a minor's information requested by a parent or guardian and may grant access to a prepared summary of the information if the provider determines

that the request can reasonably be expected to cause substantial and identifiable harm to the subject or others which would outweigh the qualified person's right of access. The statute contains a list of factors the provider must consider.

- A minor over the age of 12 may be notified of a request by their parent or guardian to review their patient information; and if the minor objects to disclosure, the provider may deny the request.

N.Y. Mental Hyg. Law § 33.16 provides that when a parent or guardian submits a written request to a "facility" to inspect the minor's "clinical record," the facility shall provide an opportunity, within ten days, for the parent or guardian to inspect anything in the clinical record related to services for which the parent or guardian consented, with exceptions:

- The parent or guardian shall not be entitled to inspect or make copies of any such clinical record where the treating practitioner determines that access to the information requested by such parent or guardian would have a detrimental effect on the practitioner's professional relationship with the minor, or on the care and treatment of the minor or on the minor's relationship with their parents or guardians.
- The health provider also may deny access to all or part of a minor's information requested by a parent or guardian and may grant access to a prepared summary of the information if the provider determines that the request can reasonably be expected to cause substantial and identifiable harm to the subject or others which would outweigh the qualified person's right of access. The statute contains a list of factors the provider must consider.
- It further provides that the facility may notify a minor over age 12 if their parent or guardian has requested to view their record; and if the minor objects to disclosure, the provider may deny the request.

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

10 N.Y. Admin. Code § 23.4 provides that when a minor patient receives diagnosis or treatment for sexually transmitted disease without the consent or knowledge of a parent or guardian, neither medical nor billing records shall be released or in any manner be made available to the parent or guardian, without the minor's permission.

N.Y. Ins. Code 2612 and 11 N.Y. Admin. Code § 244.3 provide that an insurer shall develop and implement a confidentiality protocol whereby the insurer shall keep confidential and shall not disclose to a policyholder or another insured covered under the policy against whom a victim of domestic violence has a valid order of protection,

the address and telephone number of the victim of domestic violence, or any child residing with the victim, and the name, address, and telephone number of a person providing covered services to the victim, if the victim, the victim's legal representative, or if the victim is a child, the child's parent or guardian, delivers to the insurer at its home office a valid order of protection.

N.Y. Ins. Code 2612 and 11 N.Y. Admin. Code § 244.3 provide that a "health insurer" shall accommodate a reasonable request by a person covered by an insurance policy or contract issued by the health insurer to receive communications of "claim related information" from the health insurer by alternative means or at alternative locations if the person clearly states that disclosure of all or part of the information could endanger the person and shall develop and implement a confidentiality protocol to this effect.

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

N.Y. Pub. Health Law § 2504 provides that medical, dental, health, and hospital services may be rendered to persons of any age without the consent of a parent or guardian when, in the physician's judgment an emergency exists and the person is in immediate need of medical attention and an attempt to secure consent would delay treatment and increase the risk to life or health.

Gender Affirming Care

N.Y. Educ § 6531-b defines "gender-affirming care" to mean any type of care provided to an individual to affirm their gender identity or gender expression; provided that surgical interventions on minors with variations on their sex characteristics that are not sought or initiated by the individual patient are not gender-affirming care.

N.Y. Family Ct. Act § 659 provides that laws of another state that authorize a child to be removed from their parent or guardian based on allowing the child to receive gender-affirming care shall not be enforced or applied in New York. Further, no court in New York shall admit or consider a finding of abuse based on allowing a child to receive or seek gender-affirming care, unless such conduct would constitute abuse under the laws of New York if it occurred in New York.

In New York City, Mayor Adams signed an Executive Order in 2023 providing additional protections related to gender-affirming care. See "[Shield laws](#)" for more protections. 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

NY Pub. Health § 2504 provides that anyone who acts in good faith based on the representation by a person that they are eligible to consent pursuant to the terms of this section shall be deemed to have received effective consent.

Minor Parent, Consent for Child's Care

NY Pub. Health § 2504 provides that any person who has borne a child may give effective consent for medical, dental, health and hospital services for their child.

Shield Laws

New York law contains numerous protections designed to shield health care providers when they legally provide reproductive health services and gender affirming care

services in the state and patients who received this care. Examples of these laws include: *NY Civ. Pro. Law and Rules* §§ 3102 and 3119 (subpoenas, depositions, testimony), *N.Y. Crim. Pro. § 140.10* and *N.Y. Exec. § 837-x* (arrest), *N.Y. Crim. Pro. §§ 570.17 and 570.19* (extradition), *N.Y. Pub. Health § 230* (professional discipline), *N.Y. Ins § 3436-a* (insurance), *N.Y. Pub. Health § 230* and *N.Y. Educ. § 6531* (professional misconduct), and *N.Y. Educ. § 6505-d* (licensure).

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

For up to date information on shield laws for gender affirming care, see *Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth"*.

Resources

New York Code <https://www.nysenate.gov/legislation/laws/CONSOLIDATED>

New York Administrative Code <https://dos.ny.gov/division-administrative-rules>

NORTH CAROLINA

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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
- S** Reportable, Communicable, Infectious Disease Care
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Confidentiality and Disclosure

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Minor Consent to Health Care—Minor's Status

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

Other

- S** "Conversion Therapy," Partial Ban⁴
- 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>.

NORTH DAKOTA

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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
- S** 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
- 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
- State Custody

Other

- S** "Conversion Therapy," Partial Ban⁴
- S** Emergency Care
- S** Gender Affirming Care, Restrictions
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Parent, Consent for Child's Care

Key

State law found⁵

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.D. Cent. Code § 14-10-01 provides that the age of majority is 18. Unless otherwise specified in the code, “child” and “minor” are interchangeable terms.

Emancipation

No specific legal provision was found expressly defining emancipated minor in general or outlining a legal process by which a minor may emancipate; however, some statutes reference emancipation. For example, in the Vulnerable Adult Protection Services law, *N.D. Cent. Code § 50-25.3-01*

the definition of an adult includes a minor emancipated by marriage.

Minor Marriage

N.D. Cent. Code § 14-03-02 provides that a marriage license may not be issued to a person “16 to 18 years of age” without the consent of the parents or guardian, “if there are any.” A marriage license may not be issued to any person below age 16, notwithstanding the consent of the parents or guardian of said person.

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**Minor Living Apart from Parent/Guardian**

N.D. Cent. Code § 14-10-20 provides that an “unaccompanied homeless minor” may consent to, contract for, and receive medical, dental, or behavioral health examinations, care, or treatment without permission, authority, or consent of a parent or guardian if the minor has “acceptable documentation” as specified in the statute.

“Unaccompanied homeless minor” means a minor 14 years of age or older living in one of the situations described in 42 U.S.C. 11434 a(2) [federal “Education for Homeless Children and Youth” act] and who is not in the care and physical custody of a parent or legal guardian. This section does not authorize an “unaccompanied homeless minor” to consent to an abortion. The identification of an individual as an unaccompanied homeless minor does not automatically mean the individual is a neglected child as defined in *N.D. Cent. Code § 50-25.1-02* or supersede the mandatory reporting requirements of *N.D. Cent. Code § 50-25.1-02* [North Dakota child abuse reporting law].

Minor Consent—Services**Abortion**

N.D. Cent. Code §§ 12.1-19.1-02 and 12.1-19.1-03 ban abortion at all stages of pregnancy, with only limited exceptions to prevent death or serious health risk or, prior to six weeks gestational age, in cases involving certain sexual offences and incest. Other restrictions either have been repealed or remain in place. For up to date information on the status of abortion restrictions in North Dakota, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

To the extent that abortion is legally permitted, minors may obtain an abortion, but *N.D. Cent. Code § 14-02.1-03 and 14.02.1-03.1* provide that an unmarried unemancipated minor may not obtain an abortion without the written consent of the minor and both parents and prior provision to both parents of the information required by § 14.02.1-02. The law includes a judicial bypass and a medical emergency exception. *Fargo Women’s Health Org. v. Schafer*, 18 F.3d 526 (1994), held that the North Dakota Abortion Control Act, which includes these sections, is

constitutional. *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 restrictions and protections 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.*

Emergency Care

N.D. Cent. Code § 14-10-17.1 provides that a minor may contract for and receive emergency examination, care, or treatment in a life-threatening situation without parental permission, authority, or consent. If a minor has an emergency medical condition or the potential for an emergency medical condition, consent to emergency examination, care, or treatment of the minor is implied if reasonable steps to contact the minor’s parent or guardian are unsuccessful. This subsection does not authorize a minor to withhold consent to emergency examination, care, or treatment.

Family Planning/ Contraceptives

No specific statute expressly authorizes minors to consent for family planning services or contraceptive 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 contraception and the U.S. Constitution.*

Outpatient Mental Health Care

No specific legal provision was found expressly authorizing minors to consent for outpatient mental health services, unless they are “unaccompanied homeless minors,” who may consent for behavioral health examinations, care, or treatment under *N.D. Cent. Code § 14-10-20*. See *Minor Living Apart from Parents/Guardian*.

Pregnancy-Related Care

*N.D. Cent. Code § 14-10-19 provides that a physician or other health care provider may provide pregnancy testing and pain management related to pregnancy to a minor, prenatal care to a pregnant minor in the first trimester of pregnancy, or a single prenatal care visit in the second or third trimester of pregnancy without the consent of a parent or guardian. A physician or other health care provider may provide prenatal care beyond the first trimester of pregnancy or in addition to the single prenatal care visit in the second or third trimester if, after a good-faith effort, the physician or other health care provider is unable to contact the minor’s parent or guardian. This section does not authorize a minor to consent to abortion or otherwise supersede the requirements of *N.D. Cent. Code chapter 14-02.1*. A physician or other health care professional or a health care facility may not be compelled against their*

best judgment to treat a minor based on the minor’s own consent.

N.D. Cent. Code § 23-12-13 provides that no person may provide informed consent for the sterilization of a minor without a mental health proceeding or other court order.

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

Sexual Assault Care

N.D. Cent. Code § 14-10-17.1 provides that a physician or other health care provider may provide emergency medical care or forensic services to a minor who is a victim of sexual assault without the consent of the minor’s parent or guardian.

Sexually Transmitted Infection/Disease/HIV Care

N.D. Cent. Code § 14-10-17 provides that any minor age 14 or older may contract for and receive examination, care, or treatment for sexually transmitted diseases without permission, authority, or consent of a parent or guardian.

*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.D. Cent. Code § 14-10-17 provides that any minor age 14 or older may contract for and receive examination, care, or treatment for substance use disorder without permission, authority, or consent of a parent or guardian.

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 Maintenance Organizations

N.D. Cent. Code § 26.1-18.1-23 provides that “data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person, or from any provider, by any health maintenance organization shall be held in confidence and shall not be disclosed” except upon the express consent of the enrollee or applicant or for other specified purposes.

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

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

See **Appendix 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

Pregnancy related care

N.D. Cent. Code § 14-10-19 provides that if a minor requests confidential services for pregnancy testing, pain management, or prenatal care, the physician or other health care professional shall encourage the minor to involve her parents or guardian. A physician or other health care professional who provides pregnancy care services to a minor based on their own consent may inform the parent or guardian of the minor of any pregnancy care services given or needed if the physician or other health care professional discusses with the minor the reasons for informing the parent or guardian prior to the disclosure and, in the judgment of the physician or other health care professional failure to inform the parent or guardian would seriously jeopardize the health of the minor or her unborn child; surgery or hospitalization is needed; or informing the parent or guardian would benefit the health of the minor or her unborn child.

Sexual assault

N.D. Cent. Code § 14-10-17.1 provides that when emergency medical care or forensic services are provided to a minor who is a victim of sexual assault without the consent of

the minor's parent or guardian, reasonable steps must be made to notify the minor's parent or guardian of the care provided.

Domestic Violence/Sexual Assault Counseling Center

N.D. Cent. Code § 14-07.3-02 provides that except as provided in section 14-07.3-03, a "counseling center" may not disclose "private information" concerning a minor to the parent, guardian, or custodian of the minor unless the minor authorizes the counseling center to disclose the information or the disclosure of the information is necessary for a party reasonably believed to be in need of protection.

N.D. Cent. Code § 14-07.3-01 defines a counseling center as a domestic violence organization as defined in *N.C. Cent. Code § 14-07.1-01*, which defines a "domestic violence sexual assault organization" as a private, nonprofit organization whose primary purpose is to provide emergency housing, twenty-four-hour crisis lines, advocacy, supportive peer counseling, community education, and referral services for victims of domestic violence and sexual assault. "Private information" means any information disclosed by a minor to a counselor, employee, or volunteer at a counseling center in the course of counseling or treatment of the minor.

N.D. Cent. Code § 14-07.3-02 provides that the counseling center shall establish procedures to provide access by a parent, guardian, or custodian of a minor to private information concerning the minor. However, the counseling center may deny parental access when the minor requests that the counseling center deny the access. The counseling center shall provide the minors who seek counseling, treatment, or other assistance from the center with a notification that the minor has the right to request that parental access to private information be denied. The counseling center may require the minor submit a written request that the access be denied. The written request must set forth the reasons for denying parental access and must be signed by the minor. Upon receipt of the request, the counseling center shall determine if honoring the request to deny parental access would be in the best interest of the minor. In making the determination, the

counseling center shall consider specific criteria related to the age and maturity of the minor, the need to protect the minor from physical or emotional harm; if the private information concerns medical, dental, or other health needs of the minor, the information may be released only if failure to inform the parent would seriously jeopardize the health of 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 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.D. Cent. Code § 14-10-17.1 provides If a minor has an emergency medical condition or the potential for an emergency medical condition, consent to emergency examination, care, or treatment of the minor is implied if reasonable steps to contact the minor's parent or guardian are unsuccessful.

Gender Affirming Care

2023 *N.D. HB 1264* added *N.D. Cent. Code §§ 12.1-36.1 – 12.1-36.1-04*, a new chapter, titled "Minor Sex Change Treatment." This statute prohibits a licensed physician, physician assistant, or nurse, or a certified medical assistant from providing specified surgeries, or providing any "drug that has the purpose of aligning the minor's sex with the minor's perception of the minor's sex," including puberty-blockers and cross-sex hormones. Willful violations are classified either as felonies or misdemeanors. Exceptions are included for treatment of medically verifiable genetic disorders of sex development.

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.D. Cent. Code § 14-10-17.1 provides that a physician or other qualified professional licensed to practice in this state who provides medical, dental, or behavioral health examinations, care, or treatment to an unaccompanied homeless minor under this section may not be held liable in any civil or criminal action for providing such services without having obtained permission from the minor's parent or guardian. This section does not relieve the physician or other qualified professional from liability for negligence in the diagnosis or treatment of an unaccompanied homeless minor.

Minor Parent, Consent for Child's Care

N.D. Cent. Code § 14-10-17.1 provides that an "unaccompanied homeless minor" who is a parent may consent to, contract for, and receive medical, dental, and behavioral health examinations, care, or treatment for the minor's child. "Unaccompanied homeless minor" is defined in the statute.

Resources

North Dakota Statutes <https://ndlegis.gov/general-information/north-dakota-century-code/index.html>

North Dakota Administrative Regulations <https://ndlegis.gov/agency-rules/north-dakota-administrative-code/index.html>

OHIO

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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

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

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>

OKLAHOMA

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- S** Minor Parent, Consent for Child's Care
- S** Parent Consent
- S** Research Participation

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

Okla. Stat. Ann. tit. 15, § 13 provides that the age of majority is 18.

Emancipation

Okla. Stat. Ann. tit. 10, §§ 92 – 94 authorize minors under age 18 years to petition a court for emancipation and specify the procedures, criteria, and effects of emancipation.

Minor Marriage

Okla. Stat. Ann. tit. 43, § 3 provides that a minor age 16 or 17 years may marry with the consent of a parent or guardian; a minor under age 16 years may not marry except with a court order “in settlement of a suit for seduction or paternity” or “if the unmarried female is pregnant, or has given birth to an illegitimate child” and other criteria are met. If a child under the age of 18 years is in the custody of the Department of Human Services or the Department of Juvenile Justice, the parent or guardian shall not be eligible to consent to the marriage of such minor child.

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**

Okla. Stat. Ann. tit. 63, § 2602 provides that any minor who is emancipated may consent for health services by health professionals, excluding sterilization and abortion. *Okla. Stat. Ann. tit. 63, § 2601* defines “health professional” to include any licensed physician, psychologist, dentist, osteopathic physician, podiatrist, chiropractor, registered or licensed practical nurse or physician’s assistant; and defines “health services” as services delivered by any health professional including examination, preventive and curative treatment, surgical, hospitalization, and psychological services, except abortion or sterilization. If the health services include counseling concerning abortion, all alternatives will be fully presented to the minor.

Married Minor

Okla. Stat. Ann. tit. 63, § 2602 provides that any minor who is married may consent for health services by health professionals, excluding sterilization and abortion. *Okla. Stat. Ann. tit. 63, § 2601* defines “health professional”

to include any licensed physician, psychologist, dentist, osteopathic physician, podiatrist, chiropractor, registered or licensed practical nurse or physician’s assistant; and defines “health services” as: services delivered by any health professional including examination, preventive and curative treatment, surgical, hospitalization, and psychological services, except abortion or sterilization. If the health services include counseling concerning abortion, all alternatives will be fully presented to the minor.

Minor in Armed Forces

Okla. Stat. Ann. tit. 63, § 2601 provides that for the purpose of consenting to medical care, any person who is on active duty with or has served any branch of the U.S. Armed Services is considered an adult.

Minor Living Apart from Parent/Guardian

Okla. Stat. Ann. tit. 63, § 2602 provides that minors who are separated from their parents or guardian for whatever reason and are not supported by their parents or guardians may consent for health services by health professionals, excluding sterilization and abortion.

Okla. Stat. Ann. tit. 63, § 2601 defines “health professional” to include any licensed physician, psychologist, dentist, osteopathic physician, podiatrist, chiropractor, registered or licensed practical nurse or physician’s assistant; and defines “health services” as: “services delivered by any health professional including examination, preventive and curative treatment, surgical, hospitalization, and psychological services, except abortion or sterilization. If the health services include counseling concerning abortion, all alternatives will be fully presented to the minor.

Minor Parent

Okla. Stat. Ann. tit. 63, § 2602 provides that any minor who has a dependent child may consent for health services, excluding sterilization and abortion. *Okla. Stat. Ann. tit. 63, § 2601* defines “health professional” to include any licensed physician, psychologist, dentist, osteopathic physician, podiatrist, chiropractor, registered or licensed practical nurse or physician’s assistant; and defines “health services” as services delivered by any health professional including examination, preventive and curative treatment, surgical, hospitalization, and psychological services, except abortion or sterilization. If the health services include counseling concerning abortion, all alternatives will be fully presented to the minor.

Minor Consent—Services

Abortion

Abortion is banned in Oklahoma with limited exceptions. *Okla. Stat. Ann. tit. 21, § 861*, a pre-Roe trigger ban, has been revived and is currently being enforced, with an exception only “when necessary to preserve the life” of the pregnant person. Additional restrictions have passed and been challenged in court. *For up to date information on the status of abortion restrictions and cases in Oklahoma, 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 *Okla. Stat. Ann. tit. 63, § 1-740* provides that any person who performs an abortion on a minor without parental consent or knowledge shall be liable for the cost of any subsequent medical treatment such minor might require because of the abortion. *Okla. Stat. Ann. tit. 63, §§ 1-740.1 - 1-740.5* provide that no person may perform an abortion on an unemancipated minor without prior written notification to a parent or guardian; an unemancipated minor means any person less than 18 years of age who is not married or who is under the care, custody and control of the person’s parent, guardian, or juvenile court. This law includes a judicial bypass, a medical emergency exception, and an exception for physical or sexual abuse. This law was held constitutional in *Nova Health Sys. v. Edmondson*, 460 F.3d 1295 (C.A. 10 Okla., 2006), confirmed, 10th Cir. Okla., Aug. 25, 2006. *Okla. Stat. Ann. tit. 63, § 2601* provides that the health services for which a pregnant minor may consent do not include sterilization or abortion. *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.

Emergency Care

Okla. Stat. Ann. tit. 63, § 2602 provides that any minor who is in need of emergency services for conditions which will endanger the minor’s health or life if obtaining parent or guardian consent would result in delay may consent for health services, excluding any medicine or device for the prevention of pregnancy and excluding sterilization and abortion; the prescribing of any medicine or device for the prevention of pregnancy shall not be considered such an emergency service.

Okla. Stat. Ann. tit. 63, § 2604 provides that concurrence from another physician is required for major surgery, general anesthesia, or a life-threatening procedure except in an emergency in a community where no other surgeon can be contacted in a reasonable time. In cases where emergency care is needed and the minor is unable to give consent, a parent, spouse, or legal guardian may consent.

Family Planning/ Contraceptives

Okla. Stat. Ann. tit. 63, § 2602 provides that any minor who is or has been pregnant may consent for health services by a health professional for the prevention, diagnosis, and treatment of pregnancy, excluding sterilization and abortion. Any health professional who accepts the responsibility of providing these health services also assumes the obligation to provide counseling for the minor by a health professional.

Okla. Stat. Ann. tit. 63, § 2601 defines “health professional” to include any licensed physician, psychologist, dentist, osteopathic physician, podiatrist, chiropractor, registered or licensed practical nurse or physician’s assistant; and defines “health services” as: services delivered by any health professional including examination, preventive and curative treatment, surgical, hospitalization, and psychological services, except abortion or sterilization. If the health services include counseling concerning abortion, all alternatives will be fully presented to the minor.

In *Okla. Op. Att’y Gen. No. 85-73, January 24, 1986*, the Oklahoma Attorney General opined that state law requiring parental consent before family planning services can be offered to certain minors violated Title X of the federal Public Health Services Act; thus, a state entity which receives funds under that Act would be precluded from requiring parental consent for those minors.

Okla. Admin. Code § 340:70-9-17 provides that in Sooner Care [Oklahoma Medicaid], when “there is a need for family planning services for any minor child in the household, the minor child may self-refer to the SoonerCare medical provider of his or her choice.”

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

Okla. Stat. Ann. tit. 63, § 2602 provides that any minor who is or has been pregnant may consent for health services for the prevention, diagnosis, and treatment of pregnancy, excluding sterilization and abortion. Any health professional who accepts the responsibility of providing these health services also assumes the obligation to provide counseling for the minor by a health professional.

Okla. Stat. Ann. tit. 63, § 2601 defines “health professional” to include any licensed physician, psychologist, dentist, osteopathic physician, podiatrist, chiropractor, registered or licensed practical nurse or physician’s assistant; and defines “health services” as: services delivered by any health professional including examination, preventive and curative treatment, surgical, hospitalization, and psychological services, except abortion or sterilization. If the health services include counseling concerning abortion, all alternatives will be fully presented to the minor.

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

Okla. Stat. Ann. tit. 63, § 2602 provides that any minor who is or has been afflicted with any reportable communicable disease may consent for health services by a health professional for the prevention, diagnosis, and treatment of the reportable disease, excluding sterilization and abortion. Any health professional who accepts the responsibility of providing these health services also assumes the obligation to provide counseling for the minor by a health professional. *Okla. Admin. Code § 310:515-1-4* contains a list of reportable diseases.

Okla. Stat. Ann. tit. 63, § 2601 defines “health professional” to include any licensed physician, psychologist, dentist, osteopathic physician, podiatrist, chiropractor, registered or licensed practical nurse or physician’s assistant; and defines “health services” as: services delivered by any health professional including examination, preventive and curative treatment, surgical, hospitalization, and psychological services, except abortion or sterilization. If the health services include counseling concerning abortion, all alternatives will be fully presented to the minor.

Sexual Assault Care

Okla. Stat. Ann. tit. 63, § 2602 provides that any minor who is the victim of sexual assault may consent for services; provided, however, that such self-consent only applies to a forensic medical examination by a qualified licensed health care professional.

Sexually Transmitted Infection/Disease/HIV Care

Okla. Stat. Ann. tit. 63, § 2602 provides that any minor who is or has been afflicted with any reportable communicable disease may consent for health services for the prevention, diagnosis, and treatment of the reportable disease, excluding sterilization and abortion. Any health professional who accepts the responsibility of providing these health services also assumes the obligation to provide counseling for the minor by a health professional. *Okla. Admin. Code § 310:515-1-4* contains a list of reportable diseases.

Okla. Stat. Ann. tit. 63, § 1-532.1 provides that any person, regardless of age, has the capacity to consent for examination and treatment by a licensed physician for any sexually transmitted infection.

Okla. Admin. Code § 310:515-1-4 provides that HIV and AIDS are reportable diseases.

Okla. Stat. Ann. tit. 63, § 1-502.3 provides that written consent by the person whose blood is to be withdrawn and tested is required for an HIV test, with certain exceptions.

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

Okla. Stat. Ann. tit. 63, § 2602 provides that any minor who is or has been afflicted with drug and substance abuse or abusive use of alcohol may consent for health services for prevention, diagnosis, and treatment of drug and substance abuse or abusive use of alcohol. Any health professional who accepts the responsibility of providing these health services also assumes the obligation to provide counseling for the minor by a health professional.

Okla. Stat. Ann. tit. 63, § 2601 defines “health professional” to include any licensed physician, psychologist, dentist, osteopathic physician, podiatrist, chiropractor, registered or licensed practical nurse or physician’s assistant; and defines “health services” as: services delivered by any health professional including examination, preventive and curative treatment, surgical, hospitalization, and psychological services, except abortion or sterilization. If the health services include counseling concerning abortion, all alternatives will be fully presented to the minor.

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

Medical Records

Okl. Stat. Ann. tit. 76, § 19 provides that any person who is or has been a patient of a doctor, hospital or other medical institution shall be entitled, upon request, to obtain access to the information contained in the patient’s medical records including any x-ray or other photograph or image, pathology slide or the patient’s medical bills.

Okl. Stat. Ann. tit. 25, § 2002 provides that parents have the “right to access and review all medical records of the minor child unless otherwise prohibited by law or the parent is the subject of an investigation of a crime committed against the minor child and a law enforcement official requests that the information not be released.”

Mental Health/Substance Use

Okl. Stat. Ann. tit. 43A §1-109 provides that all mental health and drug or alcohol abuse treatment information and all communications between a physician or licensed mental health professional or a licensed alcohol and drug counselor and a consumer are both privileged and confidential and that the identity of all persons who have received or are receiving mental health or drug or alcohol abuse treatment services is confidential and privileged. Subject to certain exceptions, disclosure generally requires the authorization of the patient; however, disclosure is permitted to the parent of a minor for the purpose of notifying the parent of the location of his or her child; provided, however, such disclosure may not identify the

person directly or indirectly as a person with a substance abuse disorder.

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

Emergency

Okl. Stat. Ann. tit. 63, § 2602 provides that when a minor has consented to emergency services, the provider must make a reasonable effort to notify the parent or guardian of the treatment.

Minors who are Emancipated, Married, Living Apart, Parenting, or Receiving Services for Family Planning, Pregnancy, Reportable Disease, Sexual Assault, Substance Use

Okla. Stat. Ann. tit. 63, § 2602 provides that when a minor has consented to care under *tit. 63, § 2602* (except for emergency services), the health professional is permitted but not required to inform the parent or guardian of any treatment needed or provided. The judgment of the health professional as to notification shall be final. Information about the minor obtained through care by a health professional under the provisions of this statute shall not be disseminated to any health professional, school, law enforcement agency or official, court authority, government agency, or official employer, without the consent of the minor, except through specific legal requirements or if necessary to the health of the minor and the public. If the minor is found not to be pregnant, or afflicted with a communicable reportable disease, or abusing drugs or alcohol, the health professional shall not reveal any information to the parent or guardian without the minor's consent.

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.

Care in Certain Settings, Parent Consent

Okla. Stat. Ann. tit. 25, § 2004 provides: "Except as otherwise provided by law, no person, corporation, association, organization, state-supported institution, or individual employed by any of these entities may procure, solicit to perform, arrange for the performance of, perform surgical procedures, or perform a physical examination upon a minor or prescribe any prescription drugs to a minor without first obtaining a written consent of a parent or legal guardian of the minor. Provided, however, that if written consent is provided to a school district for assessment or treatment, such consent shall be effective for the school year for which it is granted and shall be renewed each subsequent school year. If an assessment or treatment is performed through telemedicine at a school site and if consent has been provided by the parent and is currently effective, the health professional shall not be required to verify that the parent is at the site."

Constitution

Article II, § 7 of the Oklahoma Constitution provides: "No person shall be deprived of life, liberty, or property, without due process of law." *Article II, § 2* of the Oklahoma Constitution provides: "All persons have the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry." In *Okla. Call for Reprod. Just. v. Drummond (OCRJI)*, 526 P.3d 1123 (Ok. 2023), the Oklahoma Supreme Court found that these two sections of the Oklahoma Constitution protect a limited right to an abortion – an inherent right of the mother to terminate a pregnancy when "necessary to preserve her life." This was reaffirmed in *Okla. Call for Reprod. Just. v. Drummond (OCRJI)*, 543 P.3d 110 (Ok. 2023).

Do Not Resuscitate

Okla. Stat. Ann. tit. 63, § 3131.4 provides that if a parent or guardian wishes to withhold cardiopulmonary resuscitation

in the event of the minor child's cardiac or respiratory arrest, the consent of the minor is also required if the minor possesses sufficient understanding and appreciates the nature and consequences of the treatment regardless of the chronological age.

Okla. Stat. Ann. tit. 63, § 3131.7 provides that at any time, a minor, despite the minor's age, may revoke the do-not-resuscitate consent, if the minor is capable of doing so and possesses sufficient understanding and appreciation of the nature and consequences of the treatment decision.

Emergency Care

Okla. Stat. Ann. tit. 63, § 2602 provide that in cases where emergency care is needed and the minor is unable to give consent, a parent, spouse, or legal guardian may consent.

Okla. Stat. Ann. tit. 59, § 518 provides that no person who is a licensed practitioner of a healing art in Oklahoma, who in good faith renders emergency care or treatment at the scene of an emergency, shall be liable for any civil damages as a result of any acts or omissions by such person in rendering care, and no such person may be prosecuted under the criminal statutes of Oklahoma for treatment of a minor without the consent of a minor's parent or guardian.

Financial Responsibility

Okla. Stat. Ann. tit. 63, § 2603 provides that the spouse, parent, or legal guardian of a minor who consents to health care under *Okla. Stat. Ann. tit. 63, § 2602*, is not liable for payment of the health care unless they have expressly agreed to pay for such care; minors consenting to health services must assume financial responsibility for the cost of the services, except those who are proven unable to pay and who receive the services in public institutions.

Gender Affirming Care, Restriction

Okla. Stat. Ann. tit. 63, § 2607.1 prohibits health care professionals from providing "gender transition procedures," including surgery, "puberty-blocking drugs," "cross-sex hormones" for the purposes of "attempting to affirm the minor's perception of his or her gender or biological sex, if that perception is inconsistent with the minor's biological sex." Exceptions are included for specific medical purposes, for "behavioral health services or mental health counseling" and for "medications to treat depression or anxiety." Violations are considered unprofessional conduct and may lead to loss of license. Enforcement may also include criminal prosecution for a felony and civil actions for damages. The statute defines key terms.

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

Okla. Stat. Ann. tit. 63, § 2602 provides that if any minor falsely represents that he may give consent and a health professional provides health services in good faith based upon that misrepresentation, the minor shall receive full services without the consent of the minor's parent or legal guardian and the health professional shall incur no liability except for negligence or intentional harm. It also provides that the health professional shall not incur criminal liability for action under the provisions of the "Health Services for Minors" act except for negligence or intentional harm.

Okla. Stat. Ann. tit. 63, § 2605 provides that *Okla. Stat. Ann. tit. 63, § 2602* does not require any health professional to provide health care, nor shall any health professional be liable for refusal to give health care.

Okla. Stat. Ann. tit. 10A, § 1-3-101 and § 1-3-103 provide that if any adult falsely represents in writing that they have authority to consent for health care for a minor, and if a health professional provides health services in good faith upon such misrepresentation, the health professional shall incur no liability except for negligence or intentional harm.

Minor Parent, Consent for Child's Care

Okla. Stat. Ann. tit. 63, § 2602 provides that any minor parent may consent for health services, excluding sterilization and abortion, for their child.

Parent Consent

Okla. Stat. Ann. tit. 25, § 2002 provides that a parent has the "right to make healthcare decisions for the minor child, unless otherwise prohibited by law."

Okla. Stat. Ann. tit. 25, § 2002 provides that a parent also has "the right to access and review all medical records of the minor child unless otherwise prohibited by law or the parent is the subject of an investigation of a crime committed against the minor child and a law enforcement official requests that the information not be released."

Okla. Stat. Ann. tit. 25, § 2004 provides: "Except as otherwise provided by law, no person, corporation, association, organization, state-supported institution, or individual employed by any of these entities may procure, solicit to perform, arrange for the performance of, perform surgical procedures, or perform a physical examination upon a minor or prescribe any prescription drugs to a minor without first obtaining a *written* consent of a parent or legal guardian of the minor." (*emphasis added*). This section does not apply to an abortion or when it has been determined by a physician that an emergency exists and that it is necessary to perform such surgical procedures for the treatment of an injury, illness or drug abuse, or to save the life of the patient, or when such parent or other adult authorized by law to consent on behalf of a minor cannot be located or contacted after a reasonably diligent effort.

Okla. Stat. Ann. tit. 25, § 2005 provides: “Except as otherwise provided by law or a court order, no person, corporation, association, organization or state-supported institution, or any individual employed by any of these entities, may procure, solicit to perform, arrange for the performance of or perform an assessment for mental health therapy on a minor without first obtaining the *written* consent of a parent or a legal guardian of the minor child.” (*emphasis added*). This section does not apply when an emergency exists that requires a person to perform mental health screening or provide mental health treatment to prevent serious injury to or save the life of a minor child.

Research Participation

Okla. Stat. Ann. tit. 63, § 2601 provides that for purposes of §§ 2601 – 2607.1, which include services for which minors may give their own consent, services “shall not include research or experimentation with minors except where used in an attempt to preserve the life of that minor, or research as approved by an appropriate review board involved in the management of reportable diseases.”

Resources

Oklahoma Statutes <https://oksenate.gov/search-statutes-constitution>

Oklahoma Administrative Code <https://rules.ok.gov/code>

OREGON

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- S Reproductive Freedom
- S Shield Laws
- S Sterilization

Key

State law found⁵

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

Or. Rev. Stat. § 109.510 provides that the age of majority is 18.

Emancipation

Or. Rev. Stat. §§ 419B.550 - 419B.558 specify the criteria, procedures, and contents of a court order for emancipation of minors. *Or. Rev. Stat. § 419B.558* provides that a minor must be at least age 16 years to apply for emancipation.

Minor Marriage

Or. Rev. Stat. §§ 106.010 and 106.060 provide that the minimum age of marriage is 17 years and the written consent of a parent or guardian is required for a minor to marry.

Or. Rev. Stat. § 109.520 provides that all persons shall be deemed to have arrived at the age of majority upon 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**

No statute expressly authorizes emancipated minors to consent for health care generally. *Or. Rev. Stat. § 127.505* provides that an emancipated minor is considered an adult for health care power of attorney and advance directive purposes. *Or. Rev. Stat. § 419B.552* provides that a judgment of emancipation serves to "recognize the minor as an adult for the purposes of contracting and conveying, establishing a residence, suing and being sued, and making a will, and recognize the minor as an adult for purposes of the criminal laws of this state" as well as to terminate certain parent-child relationships, including a legal custodian's authority to authorize ordinary medical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the ward, and, in an emergency where the ward's safety appears urgently to require it, to authorize surgery or other extraordinary care, as provided in *§ 419B.373* and *§ 419C.550*.

Married Minor

Or. Rev. Stat. § 109.520 provides that married minors are deemed to have reached the age of majority.

Minor, Age or Maturity

Or. Rev. Stat. § 109.640 provides that a minor age 15 years or older may give consent, without the consent of a parent or guardian of the minor, to:

- hospital care and medical or surgical diagnosis or treatment by a licensed physician or naturopathic physician;
- dental or surgical diagnosis or treatment by a licensed dentist; diagnosis or treatment by a licensed physician associate acting pursuant to a collaboration agreement as defined in ORS 677.495;
- diagnosis and treatment by a licensed nurse practitioner acting within the scope of practice for a nurse practitioner; and
- except when the minor is obtaining contact lenses for the first time, diagnosis and treatment by licensed optometrist acting within the scope of practice for an optometrist.

Minor in State Custody

Or. Rev. Stat. § 418.307 provides that a child who is ward of the court or is a dependent or delinquent child may consent to medical treatment as provided in *Or. Rev. Stat. § 109.640*, which authorizes minors of any age to consent to reproductive health care and minors age 15 years or older to consent for medical care generally.

Minor Consent—Services

Abortion

Abortion is legal and protected in Oregon. *Or. Rev. Stat. § 435.210* provides that “every individual has a fundamental right to make decisions about the individual’s reproductive health care, including the right . . . to terminate the individual’s pregnancy.” *Or. Rev. Stat. § 435.240* provides that a public body may not, among other things, deprive a consenting individual of the choice of exercising the individual’s reproductive health rights under *§ 435.210* or prohibit a health care provider, who is acting within the scope of the health care provider’s license, from providing reproductive health care information and services to a consenting individual. *For up to date information on the status of abortion protections and restrictions in Oregon, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).*

Minors may consent to abortion, and neither parental notice or consent is required. *Or. Rev. Stat. § 109.640* provides that a minor of any age may give consent, without the consent of a parent or guardian of the minor, to receive “reproductive health care” information and services as defined in *Or. Rev. Stat. § 435.190* (excluding sterilization for a minor under age 15 years), from a health care provider who is a licensed physician, physician associate, nurse practitioner, pharmacist, or naturopathic physician and who is acting within the provider’s scope of practice.

Or. Rev. Stat. § 109.640 also provides that a minor under age 15 years may give consent, without the consent of a parent or guardian of the minor, to an abortion only if the abortion is provided by a health care provider who is acting within the health care provider’s scope of practice and who reasonably believes, in the health care provider’s professional judgment, that: Involving the parent or guardian of the minor may result in the physical or emotional abuse of the minor or the neglect of the minor; or requiring the consent of a parent or guardian of the minor would not be in the best interest of the minor, for the reasons documented by the health care provider after obtaining the concurrence of another health care provider who is associated with a separate medical practice or facility.

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.

Emergency Care

Or. Rev. Stat. § 109.640 authorizes minors age 15 years or older to consent for hospital care and medical or surgical diagnosis or treatment by a specified group of health care professionals. See *Oregon Health Authority, Understanding Minor Consent and Confidentiality in Oregon, Version 3, December 2023*, which lists “emergency room visits” among the services that would be covered by this law.

Or. Admin. Rule 818-012-0010 provides that the Board of Dentistry finds that, in an emergency situation, a licensed dentist may render treatment in a reasonable manner according to community standards if a minor patient’s guardian is unavailable.

Family Planning/ Contraceptives

Or. Rev. Stat. § 109.640 provides that a minor of any age may give consent, without the consent of a parent or guardian of the minor, to receive “reproductive health care” information and services as defined in *Or. Rev. Stat. § 435.190* (excluding sterilization for a minor under age 15 years), from a health care provider who is a licensed physician, physician associate, nurse practitioner, pharmacist, or naturopathic physician and who is acting within the provider’s scope of practice.

Or. Rev. Stat. § 435.190 defines “reproductive health care” to include “family planning and contraception...sterilization services...and any other health care and medical services related to reproductive health.”

Or. Rev. Stat. § 435.210 provides that “every individual has a fundamental right to make decisions about the individual’s reproductive health care including the right to make decisions . . . to use or refuse contraception.”

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

Or. Rev. Stat. § 109.675 provides that a minor age 14 or older may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder by a by a licensed physician, physician associate, psychologist, nurse practitioner, clinical social worker, professional counselor, marriage and family therapist, naturopathic physician; or a community mental health program established and operated pursuant to *Or. Rev. Stat. § 430.620* when approved to do so by the Oregon Health Authority pursuant to rule.

Pregnancy-Related Care

Or. Rev. Stat. § 109.640 provides that a minor of any age may give consent, without the consent of a parent or guardian of the minor, to receive “reproductive health care” information and services (excluding sterilization for a minor

under age 15 years), as defined in *Or. Rev. Stat. § 435.190*, from a health care provider who is a licensed physician, physician associate, nurse practitioner, pharmacist, or naturopathic physician and who is acting within the provider's scope of practice.

Or. Rev. Stat. § 435.190 defines "reproductive health care" to include "prenatal, postnatal and delivery care, miscarriage management, fertility care, sterilization services...and any other health care and medical services related to reproductive health."

Or. Rev. Stat. § 435.210 provides that "every individual has a fundamental right to make decisions about the individual's reproductive health care including the right to make decisions about the individual's reproductive health care, ... to continue the individual's pregnancy and give birth or to terminate the individual's pregnancy."

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

Sexually Transmitted Infection/Disease/HIV Care

Or. Rev. Stat. § 109.640 provides that a minor of any age may give consent, without the consent of a parent or guardian of the minor, to receive "reproductive health care" information and services (excluding sterilization for a minor under age 15 years), as defined in *Or. Rev. Stat. § 435.190*, from a health care provider who is a licensed physician, physician associate, nurse practitioner, pharmacist, or naturopathic physician and who is acting within the provider's scope of practice.

Or. Rev. Stat. § 435.190 defines "reproductive health care" to include "treatments for sexually transmitted infections and...any other health care and medical services related to reproductive health."

Or. Rev. Stat. § 435.210 provides that "every individual has a fundamental right to make decisions about the individual's reproductive health care...."

Or. Rev. Stat. § 433.045 requires, with certain exceptions, that a health care provider or the provider's designee shall, before subjecting an individual to an HIV test: notify the individual being tested; and allow the individual being tested the opportunity to decline the test. The notification and opportunity to decline testing may be verbal or in writing and may be contained in a general medical consent form.

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

Or. Rev. Stat. § 109.675 provides that a minor age 14 years or older may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a "chemical dependency," excluding methadone maintenance, by a licensed physician, physician associate, psychologist, nurse practitioner, clinical social worker, professional counselor, marriage and family therapist, naturopathic physician; or a community mental health program established and operated pursuant to *Or. Rev. Stat. § 430.610* when approved to do so by the Oregon Health Authority pursuant to rule.

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

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

Reproductive Care/Minor Consent Based on Age

Or. Rev. Stat. § 109.650 provides that a hospital or a physician, physician associate, nurse practitioner, naturopathic physician, dentist or optometrist may advise a parent or legal guardian of a minor of the care, diagnosis or treatment of the minor to which the minor consented under

§ 109.640 (reproductive care for minor of any age and consent for care generally for minor age 15 or older), or the need for any treatment of the minor, without the consent of the minor, and is not liable for advising the parent or legal guardian without the consent of the minor.

Substance Use/Mental Health

Or. Rev. Stat. § 109.675 requires that the person providing minor consent treatment for a mental or emotional disorder or a chemical dependency shall have the minor’s parents involved before the end of treatment unless the parents refuse or there are clear clinical indications to the contrary. Parental involvement is not required if the minor has been sexually abused by a parent, or the minor is an emancipated minor, whether emancipated by law or by virtue of having lived apart from the parent or guardian while being self-sustaining for 90 days prior to treatment

Or. Rev. Stat. § 109.680 provides that a provider that is providing services to a minor for chemical dependency or a mental or emotional disorder under minor consent may disclose relevant health information about the minor without the minor’s consent consistent with *Or. Rev. Stat. § 109.675* and the criteria outlined in *§ 109.680(2)* and (3); however, disclosure is not permitted if the minor is emancipated or the minor has been sexually abused by the parent.

Or. Rev. Stat. § 109.680(2) specifies detailed criteria and procedures for whether and to whom disclosure is permissible or required if the minor’s condition has deteriorated or the risk of a suicide attempt has become such that inpatient treatment is necessary, or if the minor’s

condition requires detoxification in a residential or acute care facility, or if the minor is at serious and imminent risk of a suicide attempt but inpatient treatment is not necessary or practicable.

Or. Rev. Stat. § 109.680(3) provides that disclosure is not required to an individual if the mental health care provider: (a) Reasonably believes the individual has abused or neglected the minor or subjected the minor to domestic violence or may abuse or neglect the minor or subject the minor to domestic violence; (b) Reasonably believes disclosure of the minor's information to the individual could endanger the minor; or (c) Determines that it is not in the minor's best interest to disclose the information to the individual.

Or. Rev. Stat. § 109.680 provides that nothing in § 109.680 is intended to limit a mental health care provider's authority to disclose information related to the minor with the minor's consent.

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

Or Rev Stat § 743B.555 provides that any enrollee in a group or individual health benefit plan has a right to request that communications be sent directly to the enrollee; and request that communications concerning the enrollee not be sent to the policyholder. A carrier or third party administrator is required to: permit any enrollee to submit a confidential communication request; inform enrollees of their right to make confidential communication requests; create a procedure for making requests that is easy to understand and complete; allow enrollees to use a standardized form created pursuant to the law; allow enrollees at the discretion of the insurer to make a request electronically or by telephone; act on electronic requests within 7 days and hard copy requests within 30 days; and inform enrollees of the status of their request if they inquire. *Or Rev Stat § 743B.555* includes definitions of key terms.

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

Or. Rev. Stat. § 418.307 provides that a licensed physician, dentist, or hospital is authorized to treat a child who is ward of the court or is a dependent or delinquent child in accord with the physician's best medical judgment without

consent if prompt action is reasonably necessary to avoid unnecessary suffering or discomfort or to effect a more expedient or effective care and it is impossible or highly impractical to obtain consent for treating the child from the child-caring agency, the child's parent or the child's legal guardian.

Financial Responsibility

Or. Rev. Stat. § 109.690 provides that the parents or legal guardian of the minor are not liable for payment if diagnosis or treatment services for chemical dependency or mental or emotional disorder are provided to a minor under *Or. Rev. Stat. § 109.675* without consent of the minor's parent or legal guardian.

Gender Affirming Care

There are no restrictions on access to gender affirming care in Oregon law at this time.

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

Or. Rev. Stat. § 109.685 provides that a licensed physician, physician associate, psychologist, clinical social worker, professional counselor, marriage and family therapist, naturopathic physician; registered nurse practitioner; or community mental health program who in good faith provides diagnosis or treatment for chemical dependency or mental or emotional disorder to a minor pursuant to *Or. Rev. Stat. § 109.675* shall not be subject to any civil liability for providing such diagnosis or treatment without consent of the parent or legal guardian of the minor.

Or. Rev. Stat. § 109.680 provides that if a mental health care provider discloses a minor's information as provided in *Or. Rev. Stat. § 109.685*, in good faith, the provider is immune from civil liability for making the disclosure without the consent of the minor.

Reproductive Freedom

Or. Rev. Stat. § 235.210 provides: "Every individual has a fundamental right to make decisions about the individual's reproductive health, including the right to make decisions about the individual's reproductive health care, to use or refuse contraception, to continue the individual's pregnancy and give birth or to terminate the individual's pregnancy."

Shield Laws

Oregon has passed a series of laws to provide protections for health care providers and patients against disciplinary, licensing, insurance, civil, and criminal actions in state and from out of state, based on the provision, receipt, assistance, support for, or liability derived from reproductive health care services and gender-affirming health services that are permitted under the laws of Oregon and were provided in accordance with the applicable standard of care. Examples of these laws are found at *Or. Rev. Stat. §§ 15.430, 24.500, 435.215, 435.240, and 659.880*.

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

For up to date information on shield laws for gender affirming care, see [Movement Advancement Project's "Equality Maps: Bans on Best Practice Medical Care for Transgender Youth"](#).

Sterilization

Or. Rev. Stat. § 436.205 provides that, for purposes of sterilization, "informed consent" means wholly voluntary consent, given by a competent individual age 15 years or older that is based upon a full understanding of the nature and consequences of sterilization.

Or. Rev. Stat. § 436.225 specifies the criteria for obtaining informed consent and provides that a natural parent, legal guardian, or conservator of a minor child may not give substituted consent for sterilization. Informed consent may not be obtained while the individual to be sterilized is: (a) In labor or childbirth; (b) Seeking to obtain or obtaining an abortion; or (c) Under the influence of alcohol or other substances that affect the individual's state of awareness. Whenever any physician has reason to believe an individual age 15 years or older is unable to give informed consent, no sterilization shall be performed until it is determined by a circuit court that the individual involved is able to and has given informed consent. Whenever the court determines, under the provisions of this chapter, that a person lacks the ability to give informed consent, the court shall permit sterilization only if the person is age 18 years or older and only upon showing that such operation, treatment, or procedure is in the best interest of the individual.

Resources

Oregon Statutes https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx

Oregon Regulations https://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx

PENNSYLVANIA

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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
- F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- S** **F** Pregnancy-Related Care
- S** Reportable, Communicable, Infectious Disease Care
- 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
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Minor Consent to Health Care—Minor's Status

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

Other

- S** "Conversion Therapy," Ban⁴
- S** Emergency Care
- S** Good Faith Reliance/Immunity from Liability
- S** Minor Parent, Consent for Child's Care
- S** Shield Laws

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

23 Pa. C.S.A. § 5101 provides that any individual age 18 or older has the right to enter into legally enforceable contracts and sue or be sued and shall be deemed an adult for these purposes. 1 Pa. C.S.A. § 1991 defines minor for general purposes as a person under age 21.

Emancipation

No statute expressly defines emancipated minor in general or specifies a legal process by which a minor may become emancipated; however, some court decisions acknowledge

emancipation for specific purposes. For a discussion of the criteria in Pennsylvania for determining on a case-by-case basis whether a minor is emancipated, see *Berks County Children and Youth Services v. Rowan*, 631 A.2d 615 (Pa. Super. 1993).

Minor Marriage

23 Pa. C.S.A. § 1304 provides, effective July 7, 2020, that no marriage license may be issued to someone under age 18 years.

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**

No statute expressly authorizes emancipated minors to consent for health care. 20 Pa. C.S.A. § 5822 provides that an emancipated minor who has not been deemed incapacitated or severely mentally disabled, may make a declaration governing the initiation, continuation, withholding or withdrawal of mental health treatment.

High School Graduate

35 Pa. Stat. § 10101 provides that any minor who has graduated from high school may consent for medical, dental, and health services for themselves and the consent of no other person shall be necessary.

Married Minor

35 Pa. Stat. § 10101 provides that any minor who has married may consent for medical, dental, and health services for themselves. Effective July 7, 2020, 23 Pa.

C.S.A. § 1304 provides that minors under age 18 were no longer allowed to marry in Pennsylvania

Minor, Age or Maturity

35 Pa. Stat. § 10101 provides that any minor who is age 18 or older may consent for medical, dental, and health services for themselves and the consent of no other person shall be necessary.

No specific legal provision expressly authorizes mature minors to consent for health care generally. However, the Supreme Court of Pennsylvania recognized that in some situations, a mature minor may be able to make a decision to refuse medical care on their own behalf. *In re Green*, 448 Pa. 338 (1972).

Pregnant Minor

35 Pa. Stat. § 10101 provides that minors who have been pregnant may consent for medical, dental, and health services for themselves and the consent of no other person is necessary.

Minor Consent - Services

Abortion

Abortion is legal in Pennsylvania, but there are many restrictions. *For up to date information on the status of abortion restrictions and protections in Pennsylvania, 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 18 Pa. C.S.A. § 3206 provides that an abortion may not be performed on an unemancipated minor under age 18 without the informed consent of the minor and one parent; however, there are exceptions for judicial bypass and emergencies, as defined in the statute. *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 consent for family planning services or contraception. However, a federal court found that it is implied in Pennsylvania’s Minors’ Consent Act that minors may obtain contraceptives without parent or guardian consent. *Parents United for Better Schools, Inc. v. School Dist. of Philadelphia Bd. of Educ.*, 978 F. Supp. 197 208 (E.D. Pa. 1997).

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

35 Pa. Stat. § 10101.1 provides that any minor who is 14 years of age or older may consent to outpatient mental health treatment, and consent of the minor’s parent or guardian is not necessary. The statute also provides that a parent or guardian of a minor less than 18 years of age may consent to voluntary outpatient mental health treatment on behalf of the minor and the minor’s consent shall not be necessary. “Mental health treatment” is defined in the statute.

Pregnancy-Related Care

35 Pa. Stat. § 10101 provides that any minor who has been pregnant may consent for medical, dental, and health services for themselves. 35 Pa. Stat. § 10103 provides that any minor may consent for medical and health services to determine the presence of or treat pregnancy.

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

Reportable Disease Care

35 Pa. Stat. § 10103 and 28 Pa. Admin. Code. § 27.97 provide that any minor may give effective consent for medical and health services to determine the presence of or to treat a reportable disease and the consent of no other person is necessary.

Sexually Transmitted Infection/Disease (STI/STD)

35 Pa. Stat. § 10103 and 28 Pa. Admin. Code § 27.97 provide that any minor may give effective consent for medical and health services to determine the presence of or to treat a sexually transmitted disease or reportable disease and the consent of no other person is necessary.

35 Pa. Stat. 521.14a provides that minors infected with a “venereal” disease may consent to treatment and the consent of a parent or person in loco parentis is not necessary.

35 Pa. Stat. § 7605 provides that an HIV test may not be performed without first obtaining the informed written consent of the subject. Prior to the test, the subject must be given an explanation of the test, information regarding measures for the prevention of, exposure to and transmission of HIV, and an opportunity for individual, face-to-face counseling. A health care provider may offer opt-out HIV testing, where the subject is informed that the subject will be tested for HIV unless the subject refuses.

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

71 Pa. Stat. § 1690.112 provides that a minor who suffers from the “use of a controlled or harmful substance” may consent for medical care or counseling related to diagnosis or treatment. The consent of the minor shall be valid and binding as if the minor had achieved his majority. A parent or guardian also may consent for such care, notwithstanding a minor’s refusal to provide consent.

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

HIV

35 Pa. Stat. § 7607 provides that a provider who obtains confidential HIV-related information in the course of providing health or social services may not disclose or be compelled to disclose the information except to: the subject of the information; the physician who ordered the test or the physician’s designee; a person designated in a written consent signed by the subject of the information; or other persons or entities specified by the statute.

Mental Health

35 Pa. Stat. § 10101.2 provides for the confidentiality and disclosure of outpatient mental health records for a minor. When a minor consents to such care under 35 Pa. Stat. 10101.1, the minor controls release of the records and information. When a parent or guardian has consented to voluntary inpatient or outpatient mental health treatment of a minor, that parent or guardian shall have the right to information necessary for providing consent to the minor’s mental health treatment, including symptoms and conditions to be treated, medications and other treatments to be provided, risks and benefits and expected results. See *Pennsylvania Department of Human Services, Office of Mental Health and Substance Abuse Services Bulletin, “Bulletin 23-01: Act 65 of 2020: Consent to Mental Health Treatment for Minors”* (Jan. 24, 2023). See also 50 Pa. Stat. § 7111.

Substance Use

71 Pa. Stat. § 1690.108 provides for the confidentiality and disclosure of information and records related to services provide under the Drug and Alcohol Abuse Control Act. Such records can only be disclosed with patient consent, except in a few circumstances outlined in the statute.

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

35 Pa. Stat. § 10101.2 provides that when a parent or legal guardian has consented to voluntary inpatient or outpatient mental health treatment of a minor, that parent or guardian shall have the right to information necessary for providing consent to the minor's mental health treatment, including symptoms and conditions to be treated, medications and other treatments to be provided, risks and benefits and expected results.

Substance Use

71 Pa. Stat. § 1690.112 provides that any physician or agency or organization operating a drug abuse program in which a minor has consented to their own care under the same statute may, but is not required to, inform the parent or guardian of the treatment given or needed. A minor may revoke consent to share information with the parents or guardian, however notification of the revocation must be made to the parent or guardian.

71 Pa. Stat. § 1690.108 provides that "when a parent or legal guardian signs the consent for furnishing medical care and counseling related to substance use on behalf of a minor and the minor refuses to sign a consent to release the treatment information to the minor's parent or legal guardian, the practitioner, hospital, clinic or drug and alcohol treatment facility providing treatment may only inform the parent or legal guardian of the facts relevant to reducing a threat to the minor or other individual in accordance with Federal or State law or any other information that is authorized under Federal or State law."

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 conversion 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

35 Pa. Stat. § 10104 provides that medical, dental and health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the physician's judgment, an attempt to secure consent would result in delay of treatment which would increase the risk to the minor's life or health.

Good Faith Reliance/Immunity from Liability

35 Pa. Stat. § 10105 provides that the consent of a minor who professes to be, but is not, a minor whose consent alone is effective to medical, dental and health services shall be deemed effective without the consent of the minor's parent or legal guardian, if the physician or other person relied in good faith upon the representations of the minor.

28 Pa. Admin. Code § 27.87 (pertaining to the treatment of minors for sexually transmitted diseases and reportable diseases) provides: "The physician may not be sued or held liable for implementing appropriate diagnosis measures or administering appropriate treatment to the minor if the minor has consented to the procedures or treatment."

35 Pa. Stat. § 521.14a (pertaining to the treatment of minors for “venereal” disease) provides: “The physician shall not be sued or held liable for properly administering appropriate treatment to the minor.”

Minor Parent, Consent for Child’s Care

35 Pa. Stat. § 10102 provides that any minor who has borne a child may consent for medical, dental, and health services for their child.

Shield Laws

PA Executive Order 2022-01 (EO) provides that state executive agencies may not assist in investigations or proceedings initiated in or by another state that seek to impose civil or criminal liability or professional discipline upon a person or entity for the provision, securing of, or

receiving of, any inquiry concerning reproductive health care services that are legal in Pennsylvania. The EO provides for some exceptions, such as when assistance is required by a court order or federal law. The EO also directs state executive agencies to work with boards of professional licensure to protect physicians from being disciplined for the provision of legal health care services. Finally, it states that the Governor must decline requests for extraditions from other states regarding the provision or receipt of or assistance with reproductive health care services, unless the acts would also be a crime in Pennsylvania. See *Commonwealth of Pennsylvania Governor’s Office, Executive Order 2022-01 – Reproductive Health Care*, (July 12, 2022), <https://www.oa.pa.gov/Policies/eo/Documents/2022-01.pdf>.

Resources

Pennsylvania Code https://www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde_index.cfm

Pennsylvania Bulletin (regulations) <https://www.pacodeandbulletin.gov/Home/Pabull>

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- S Age of Majority
- S Emancipation
- S Minor Marriage

Minor Consent to Health Care—Services

- S Abortion³
- S Emergency Care
- F Family Planning/Contraceptives
- Outpatient Mental Health Care
- S F Pregnancy-Related Care
- S Reportable, Communicable, Infectious Disease Care
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Minor Consent to Health Care—Minor's Status

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

Other

- S "Conversion Therapy," Ban⁴
- S Emergency Care
- Gender Affirming Care
- S Minor Parent, Consent for Child's Care
- S Reproductive Freedom
- S Shield Laws

Key

State law found⁵

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

R.I. Gen. Laws § 15-12-1 provides that the age of majority is 18 years.

Emancipation

No statute expressly defines emancipated minor in general or specifies a legal process by which a minor may become emancipated; however, several statutes recognize emancipation in the state. For example, for purposes of the authority to consent to donation of anatomical gifts, *R.I. Gen. Laws § 23-18.6.1-4* provides that a minor who is emancipated may donate. For purposes of consent to abortion, *R.I. Gen. Laws § 23-4.7-6* provides that a minor

who has been emancipated by a court of competent jurisdiction does not need parent consent. For purposes of school residency, *R.I. Gen. Laws § 16-64-1* provides that emancipated minors shall be deemed to be a resident of the city or town where they live.

Minor Marriage

R.I. Gen. Laws § 15-2-14 provides that only persons of full age (18 years) may obtain a marriage license. *R.I. Gen. Laws § 15-2-11*, which allowed minors to marry beginning at age 16 years, with the consent of a parent or guardian, was repealed by 2021 *R.I. HB 5387*.

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**

R.I. Gen. Laws § 23-4.6-1 provides that any married person may consent for routine, emergency, medical or surgical care.

Minor, Age or Maturity

R.I. Gen. Laws § 23-4.6-1 provides that any person age 16 or older may consent for routine, emergency, medical or surgical care.

Minor Consent—Services**Abortion**

Abortion is legal and protected in Rhode Island. *R.I. Gen. Laws § 23-4.13-2* provides that neither the state, nor any of its agencies, or political subdivisions shall restrict an individual person from preventing, commencing, continuing,

or terminating that individual's pregnancy prior to fetal viability; or restrict an individual person from terminating that individual's pregnancy after fetal viability when necessary to preserve the health or life of that individual. *For up to date information on the status of abortion protections and restrictions in Rhode Island, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).*

Minors may obtain an abortion, but *R.I. Gen. Laws § 23-4.7-6* provides that an abortion shall not be performed upon an unmarried or unemancipated minor under age 18 unless the consent of both the pregnant person and at least one parent is obtained. The law includes a judicial bypass. *R.I. Gen. Laws § 23-4.7-4* provides that the requirements can be waived in a medical emergency. *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.

Emergency Care

R.I. Gen. Laws § 23-4.6-1 provides that any person age 16 years or older or married may consent for routine, emergency, medical or surgical care.

Family Planning/ Contraceptives

No statute expressly authorizes minors to consent for family planning services or contraception.

R.I. Gen. Laws § 23-4.13-2 prohibits the state or any of its agencies or political subdivisions from restricting the use of, access to, or provision of evidence-based, medically recognized methods of contraception, except in accordance with evidence-based medically appropriate standards that are in accordance with specified federal statutes and state health regulations and standards. No court has yet construed how this may apply to minors and contraception access.

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 a discussion of contraception and the U.S. Constitution.

Pregnancy-Related Care

R.I. Gen. Laws § 23-4.6-1 provides that any person, including, but not limited to, a minor who is pregnant, may give effective consent for medical, dental, health, and hospital services relating to prenatal, delivery, and post-delivery care, excluding abortion or sterilization. The attending physician shall comply with any child abuse reporting required by *R.I. Gen. Laws § 40-11-3*.

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

R.I. Gen. Laws § 23-8-1.1 provides that minors may give legal consent for testing, examination and/or treatment for any reportable communicable disease.

Reportable diseases are listed in *Rules and Regulations Pertaining to Reporting of Communicable, Environmental and Occupational Diseases, R23-10-DIS*, available at <https://risos-apa-production-public.s3.amazonaws.com/DOH/7434.pdf>.

Sexually Transmitted Infection/Disease/HIV Care

R.I. Gen. Laws § 23-11-11 provides that minors may consent for examination and treatment for any sexually transmitted disease.

R.I. Gen. Laws § 23-8-1.1 provides that minors may give legal consent for testing, examination, or treatment for any reportable communicable disease. HIV is listed as a reportable disease in *Rules and Regulations Pertaining to Reporting of Communicable, Environmental and Occupational Diseases, R23-10-DIS*, available at <https://risos-apa-production-public.s3.amazonaws.com/DOH/7434.pdf>.

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

R.I. Gen. Laws § 14-5-4 provides that if a minor who is voluntarily seeking treatment for substance abuse or chemical dependency refuses permission to contact parents to seek parental consent and if, in the judgment of a qualified professional, that contact would not be helpful or would be deleterious to the minor, then non-invasive, non-custodial treatment services for “substance abuse or chemical dependency” may be provided by a qualified professional without parental consent. *R.I. Gen. Laws § 14-5-2* provides that “non-custodial, non-invasive treatment” means any treatment where the minor is not detained overnight or in any way against his or her will, and which consists only of counseling. This counseling can include help for personal problems and for coping with parental alcohol and drug problems.

R.I. Gen. Laws § 14-5-3 provides that in all treatment of a minor for substance abuse or chemical dependency, the licensed treatment facility shall require the parents of the minor to participate in the treatment. Parental consent for treatment of a minor shall be required, except as otherwise provided in *R.I. Gen. Laws § 14-5-4*. “Licensed treatment facility” is defined in § 14-5-2.

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 Care Communications

R.I. Gen. Laws §§ 5-37.3-1 – 5-37.3-12, the Confidentiality of Health Care Communications and Information Act, contains numerous provisions related to the protection and disclosure of individual’s confidential health care information. *R.I. Gen. Laws § 5-37.7-10* outlines the rights of a patient who has their information included in the statewide health information exchange (HIE).

Health Maintenance Organizations

R.I. Gen. Laws § 27-41-22 provides with respect to any licensed health maintenance organization that: “All information relating to a subscriber’s healthcare history, diagnosis, condition, treatment, or evaluation shall be considered confidential healthcare information and shall not be released or transferred except under the safeguards established by chapter 37.3 of title 5, the Confidentiality of Health Care Information Act.”.

HIV

R.I. Gen. Laws § 23-6.3-7 provides that it is unlawful for any person to disclose to a third-party the results of an individual’s HIV test without the prior written consent of that individual except as outlined in the statute.

Mental Health

R.I. Gen. Laws § 40.1-5-26 provides for the disclosure of confidential mental health information and records only

with the written consent of the patient or the patient’s guardian except as outlined in the statute.

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

Substance Use

R.I. Gen. Laws § 14-5-4 provides that if a minor who is voluntarily seeking treatment for substance abuse or chemical dependency refuses permission to contact

parents to seek parental consent and if, in the judgment of a qualified professional, that contact would not be helpful or would be deleterious to the minor, then non-invasive, non-custodial treatment services for “substance abuse or chemical dependency” may be provided by a qualified professional without parental consent; provided, during the course of treatment, the qualified professional shall make attempts to obtain permission from the minor to obtain parental consent for and parental involvement in the treatment services.

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

R.I. Gen. Laws § 5-37.3-12, which is part of the Confidentiality of Health Care Communications and

Information Act, requires a health insurer to permit an insured individual or authorized representative to submit a confidential communications request form; accommodate requests for communication in the form and format requested by the insured individual or authorized representative, if it is readily producible in the requested form and format; and permit that communications containing confidential healthcare information be communicated to the insured individual or authorized representative at a specific mail or email address or specific telephone number, as designated by the insured individual or authorized representative. A health insurer may require the insured individual or authorized representative to make a request for a confidential communication in writing or by electronic transmission. The confidential communication request shall be valid until the insured individual or authorized representative submits a revocation of the request, or a new confidential communication request is submitted. A confidential communications request must be implemented by the health insurer within ten (10) calendar days of the receipt of an electronic transmission or telephonic request or within ten (10) calendar days of receipt by first-class mail. The health insurer shall acknowledge receipt of the confidential communications request and advise the insured individual or authorized representative of the status of implementation of the request if an insured individual or authorized representative contacts the insurer. All health insurers shall create a confidential communications request form that shall be easily readable and prominently displayed on the health insurer’s website.

R.I. Gen. Laws § 5-37.3-12 requires the department of health to develop and disseminate to healthcare providers information on best practices relating to how providers can support insured individuals or authorized representatives requesting confidential communications.

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

In *Miller v. Rhode Island Hosp.*, 625 A.2d 778 (1993), the Rhode Island Supreme Court recognized that there is an emergency exception to the requirement to the informed consent doctrine.

Gender Affirming Care

There are no restrictions on access to gender affirming care in Rhode Island law at this time.

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.

Minor Parent, Consent for Child's Care

R.I. Gen. Laws § 23-4.6-1 provides that a minor parent may consent to treatment for their child.

Reproductive Freedom

R.I. Gen. Laws § 23-4.13-2 provides: "Neither the state, nor any of its agencies, or political subdivisions shall: (1) Restrict an individual person from preventing, commencing, continuing, or terminating that individual's pregnancy prior to fetal viability; (2) Interfere with an individual person's decision to continue that individual's pregnancy

after fetal viability; (3) Restrict an individual person from terminating that individual's pregnancy after fetal viability when necessary to preserve the health or life of that individual; (4) Restrict the use of evidence-based, medically recognized methods of contraception or abortion except in accordance with evidence-based medically appropriate standards that are in compliance with state and federal statutes enumerated in subsections (c)(1) and (c)(2) [of this statute], department of health regulations and standards referenced in subsection (c)(3), and subsection (d) [of this statute]; or (5) Restrict access to evidence-based, medically recognized methods of contraception or abortion or the provision of such contraception or abortion except in accordance with evidence-based medically appropriate standards that are in compliance with state and federal statutes enumerated in subsections (c)(1) and (c)(2) [of this statute], department of health regulations and standards referenced in subsection (c)(3), and subsection (d) [of this statute]."

Resources

Rhode Island Statutes <http://webserver.rilin.state.ri.us/Statutes/>

Rhode Island Code of Regulations <https://rules.sos.ri.gov/Organizations>

SOUTH CAROLINA

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- S Emancipation
- S Minor Marriage

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- S F Family Planning/Contraceptives
- Outpatient Mental Health Care
- F Pregnancy-Related Care
- Reportable, Communicable, Infectious Disease Care
- Sexual Assault Care
- F Sexually Transmitted Infection/Disease/HIV Care
- S Substance Use Care

Confidentiality and Disclosure

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Minor Consent to Health Care—Minor's Status

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

Other

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- S Emergency Care
- S Gender Affirming Care, Restriction
- S Methadone, Parent Consent
- S Minor Parent, Consent for Child's Care
- S Necessary Care, Minor Consent

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

S.C. Code Ann. § 15-1-320 provides that the age of majority is 18 years.

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. For purposes of obtaining an abortion, S.C. Code Ann. § 44-41-10 defines an emancipated minor as one “who is or has been married or has by court order been freed from the care, custody, and control of her parents.” For purposes of determining tuition and fees at South Carolina educational institutions, S.C. Code Ann. § 59-112-10 defines emancipated

minor as “a minor whose parents have entirely surrendered the right to the care, custody and earnings of such minor and are no longer under any legal obligation to support or maintain such minor.” For purposes of probate and estate planning, S.C. Code Ann. § 59-112-10 provides that a “minor” means a person who is under eighteen years of age, excluding a person under age 18 who is married or emancipated as decreed by the family court.

Minor Marriage

Minors cannot marry in South Carolina. S.C. Code Ann. § 20-1-300, which had provided for marriage of a minor under age 18 years in specified circumstances was repealed in 2019.

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**

S.C. Code Ann. § 63-5-330 provides that a married minor may consent for any licensed medical, surgical, dental, or hospital care for any lawful diagnostic or therapeutic surgical procedure for himself or herself.

Minor, Age or Maturity

S.C. Code Ann. § 63-5-340 provides that any minor age 16 years or older may consent for any health service other than operations, which may be performed only if essential to the health or life of the minor in the opinion of the physician and a consulting physician if one is available.

Minor Consent—Services**Abortion**

Abortion is banned in South Carolina, with limited

exceptions. S.C. Code Ann. §§ 44-41-610 – 44-41-740 impose a six-week ban that is currently being enforced after the South Carolina Supreme Court held that it was constitutional and allowed it to take effect in *Planned Parenthood S. Atl. v. South Carolina*, 440 S.C. 465 (2023). There are limited exceptions for medical emergencies, fatal fetal anomalies, to prevent the death of the pregnant person, and rape and incest. Numerous other restrictions are in place. For up to date information on the status of abortion restrictions in South 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 S.C. Code Ann. §§ 44-41-10(l), (m) and (n) and 44-41-30 – 44-41-37 provide that an abortion may not be performed on unmarried, unemancipated minor under age 17 years without the informed written consent of the minor and of one parent, a legal guardian, a grandparent, or a person standing *in loco parentis* for more than 60 days. The law includes a judicial bypass

and medical emergency and incest exceptions. 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

In 1976 S.C. Op. Atty. Gen. 108 (March 11, 1976), the South Carolina Attorney General, interpreting S.C. Code Ann. § 20-7-290 (previously numbered S.C. Code § 32-566, repealed and renumbered § 63-5-350), stated that a health care provider may give family planning services, not involving an operation, to a minor under age 16 without the parent or guardian’s consent if, in the judgment of the provider, the services are necessary to maintain the well-being of that minor. The opinion also recognized that a separate statute (currently numbered S.C. Code Ann. § 63-5-340) allows minors age 16 years or older to consent for any service, which would also include family planning 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.

Pregnancy-Related Care

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

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

Sexually Transmitted Infection/Disease/HIV Care

No statute expressly authorizes minors to consent for STI/STD/HIV care.

S.C. Code Ann. § 63-5-340 provides that any minor age 16 years or older may consent for any health service other than operations.

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

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 Maintenance Organizations

S.C. Code § 38-33-260 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 is confidential and may not be disclosed” except upon the express consent of the enrollee or applicant or for other specified purposes.

Medical Records

S.C. Code Ann. § 44-115-30 provides that a patient or their legal representative has a right to receive a copy of their medical record, or have the record transferred to another physician, upon request, when accompanied by a written authorization from the patient or his legal representative to release the record.

S.C. Code Ann. § 44-115-40 provides that except as otherwise provided by law, a physician shall not honor a request for the release of copies of medical records without the receipt of express written consent of the patient or person authorized by law to act on behalf of the patient.

S.C. Code Ann. § 44-115-40 provides: "Except as otherwise provided by law, a physician may refuse to release a copy of the entire medical record and may furnish instead a summary or portion of the record when he has a reasonable belief that release of the information contained in the entire record would cause harm to the patient's emotional or physical well-being, the emotional or physical well-being of another person who has given information about the patient to the physician, or where release of the information is otherwise prohibited by law. An unreasonable refusal to release the entire medical record constitutes unprofessional conduct and subjects the physician to disciplinary action of the South Carolina State Board of Medical Examiners."

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

HIV/ Hepatitis B

S.C. Code Regs. § 61-21 provides that when in the judgement of the Department of Health and Environmental Control or the attending physician, it is necessary to protect the health or well-being of HIV and/or Hepatitis B

infected minors under age 16 years or persons serving in a direct supervising role to such minors or to protect the public health, the Department or the attending physician may inform, if they function in a direct supervising role, biological parents, foster parents, persons in loco parentis, adoptive parents, or guardians of the HIV and/or Hepatitis B infected status of the minors but only if in the judgment of the Department it is necessary to protect the health or well-being of such minors or persons serving in a direct supervising role of such minors. to protect the public health. If the Department or the attending physician discloses the HIV and/or Hepatitis B infected status of persons listed in (a) through (c) above to any of the persons serving in a direct supervising role, counseling must also be provided.

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

S.C. Const. art. I, § 10 provides: “The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures and unreasonable invasions of privacy shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, the person or thing to be seized, and the information to be obtained.” In January 2023, in *Planned Parenthood S. Atl. v. State*, 438 S.C. 188 (2023), the South Carolina Supreme Court held that the 6-week abortion ban in place at the time violated the right to privacy protected by the state constitution and struck it down. However, in August 2023, the Court allowed a newly enacted 6-week ban to take effect, ruling in *Planned Parenthood S. Atl. v. State*, 440 S.C. 465 (2023) that it did not violate the South Carolina Constitution.

Emergency Care

S.C. Code Ann. § 63-5-350 provides that health services of any kind may be rendered to minors of any age without the consent of a parent or guardian when, in the judgment of a person authorized by law to render a particular health service, such services are necessary, except for operations. An operation may be performed only if it is essential to the health or life of a minor in the opinion of the performing physician and a consulting physician if one is available.

Gender Affirming Care, Restriction

2023 Bill Text SC H.B. 4624, enacted on May 21, 2024, to be codified at S.C. Code Ann. §§ 44-42-310 – 44-42-360 and § 59-32-36 includes prohibitions on gender transition procedures for minors and requirements for school personnel.

S.C. Code Ann. §§ 44-42-310 – 44-42-360 prohibit physicians, mental health providers, and other health care professionals from providing “gender transitions procedures” including “puberty-blocking drugs” and “cross-sex hormones,” to minors, with exceptions for a “systematic

reduction” period between August 1, 2024, and January 31, 2025, for treatment of certain medical conditions. The law permits mental health providers to offer mental health services within their scope of practice that are not inconsistent with the prohibitions on gender transition services. The law also specifies penalties for violations and prohibits the use of public funds or Medicaid funds for gender transition procedures.

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.

Methadone, Parent Consent

S.C. Code § 44-53-760 provides that parental consent shall be obtained for all persons under age 18 years prior to admission to a methadone maintenance program; provided, that if any court of competent jurisdiction declares a person under age 18 years an emancipated minor, then such person may be admitted to the program without parental consent.

Minor Parent, Consent for Child’s Care

S.C. Code Ann. § 63-5-360 provides that any minor who has borne a child may consent for health services for the child.

Necessary Care, Minor Consent

S.C. Code Ann. § 63-5-350 provides that health services of any kind may be rendered to minors of any age without the consent of a parent or guardian when, in the judgment of a person authorized by law to render a particular health service, such services are necessary, except for operations. An operation may be performed only if it is essential to the health or life of a minor in the opinion of the performing physician and a consulting physician if one is available.

Resources

South Carolina Statutes <https://www.scstatehouse.gov/code/statmast.php>

South Carolina Code of State Regulations <https://www.scstatehouse.gov/coderegs/statmast.php>

SOUTH DAKOTA

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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
- F** Family Planning/Contraceptives
- Outpatient Mental Health Care
- F** Pregnancy-Related Care
- Reportable, Communicable, Infectious Disease Care
- Sexual Assault Care
- S** **F** Sexually Transmitted Infection/Disease/HIV Care
- S** Substance Use Care

Confidentiality and Disclosure

- F** Confidentiality/Access to Records
- S** **F** Disclosure to Parents/Guardians
- 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
- S** Minor in Armed Forces
- S** Minor Living Apart from Parent/Guardian
- Minor Parent
- Minor in State Custody
- Pregnant Minor

Other

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

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

S.D. Codified Laws § 26-1-1 provides that the age of majority is 18 years.

Emancipation

S.D. Codified Laws § 25-5-24 provides that minors are emancipated if they have entered a valid marriage, are on active duty with any of the armed forces of the United States, or have received a declaration of emancipation from the court. *S.D. Codified Laws § 25-5-26* provides that a minor age may petition a court for a declaration of

emancipation. The petition must allege that the minor is at least age 16 years; willingly lives separate and apart from parents or guardian with their consent or acquiescence; is managing the minor's own financial affairs; and the source of income is not derived from any criminal activity.

Minor Marriage

S.D. Codified Laws § 25-1-9 provides that the notarized, written consent of one parent or legal guardian is required for a minor between the ages of 16 and 18 years to marry.

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**

S.D. Codified Laws § 25-5-25 provides that an emancipated minor may consent for medical, chiropractic, optometric, dental, or psychiatric care, without parental consent, knowledge, or liability.

Married Minor

S.D. Codified Laws § 25-5-24 provides that a minor is emancipated by marriage and remains emancipated even if the marriage is dissolved. *S.D. Codified Laws § 25-5-25* provides that an emancipated minor may consent for medical, chiropractic, optometric, dental, or psychiatric care, without parental consent, knowledge, or liability.

Minor in Armed Forces

S.D. Codified Laws § 25-5-24 provides that a minor is emancipated upon joining the armed forces of the United States. *S.D. Codified Laws § 25-5-25* provides that an emancipated minor may consent for medical, chiropractic, optometric, dental, or psychiatric care, without parental consent, knowledge, or liability.

Minor Living Apart from Parent/Guardian

A minor living apart from parent or guardian may consent for their own health care if they have been granted a declaration of emancipation pursuant to *S.D. Codified Laws § 25-5-26*.

Minor Consent—Services**Abortion**

Abortion is banned in South Dakota, with limited exceptions. *For up to date information on the status of abortion restrictions in South Dakota, 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 *S.D. Codified Laws §§ 34-23A-1, 34-23A-7, 34-23A-7.1, 34-23A-10.1, 34-23A-10.2, 34-23A-22, 26-1-1* provide that an abortion may not be performed on an unemancipated minor under age 18 years until the minor has provided voluntary and informed consent and until written notice has been given to one parent. The law includes a judicial bypass and an emergency exception.

§ 34-23A-22 also gives parents a civil cause of action for abortions performed on their minor child in violation of the statute. 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 consent for family planning services or contraceptive 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.

Pregnancy-Related Care

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

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

S.D. Codified Laws § 22-22-26.3 provides that a minor age 16 years or older may consent to a forensic medical examination, as defined under S.D. Codified Laws § 22-22-26. The consent is not subject to disaffirmance because of minority, and consent of a parent or guardian is not required under this section. The physician, hospital, or clinic shall take reasonable steps to notify a minor's parent or guardian that an examination has taken place, unless the parent or guardian is the suspected perpetrator.

Sexually Transmitted Infection/Disease/HIV Care

S.D. Codified Laws § 34-23-16 provides that any licensed physician "upon consultation by any minor as a patient, may, with the consent of such person ... may make a diagnostic examination for venereal disease and prescribe for and treat such person for venereal disease including prophylactic treatment for exposure to venereal disease whenever such person is suspected of having a venereal disease or contact with anyone having a venereal disease." S.D. Codified Laws § 34-23-17 provides that treatment of a minor for "venereal disease" by county or state health departments shall be offered to a minor at the minor's request and without the necessity of consent of or notification to the parents.

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

S.D. Codified Laws § 34-20A-50 provides that a minor "suffering from alcohol or drug abuse" may apply to an accredited facility for voluntary treatment, as can the minor's parent, guardian or other legal representative.

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

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 Information to Parents/Guardians

Emancipated or Married Minor

S.D. Codified Laws §§ 25-5-24 and 25-5-25 provide that a married minor or an emancipated minor may receive medical, chiropractic, dental, or psychiatric care without parental knowledge.

Sexual Assault

S.D. Codified Laws § 22-22-26.3 provides that when a minor age 16 years or older consents to a forensic medical examination, physician, hospital, or clinic shall take reasonable steps to notify the minor’s parent or guardian that an examination has taken place, unless the parent or guardian is the suspected perpetrator.

STI/STD/HIV

S.D. Codified Laws § 34-23-17 provides that treatment of a minor for “venereal disease” by county or state health departments shall be offered to a minor at the minor’s request without the necessity of consent of or notification to the parents.

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

S.D. Codified Laws § 20-9-4.2 provides that a minor may be treated by a licensed physician before the parent's or guardian's consent is obtained if the parent or guardian is not immediately available and if, in the opinion of the treating physician, the attempt to secure consent would result in delay of treatment which would threaten the minor's life or health. The section does not apply to an elective abortion or to sterilization or to any device or medication for birth control.

Financial Responsibility

S.D. Codified Laws §§ 25-5-24 and 25-5-25 provide that when a married minor or an emancipated minor receives medical, chiropractic, dental, or psychiatric care without parental knowledge the parents are not financially responsible for the care.

Gender Affirming Care, Restriction

S.D. Codified Laws §§ 34-24-33 – 34-24-38 provides that a health care professional may not “for the purpose of attempting to alter the appearance of, or to validate a minor's perception of, the minor's sex, if that appearance or perception is inconsistent with the minor's sex, knowingly: (1) Prescribe or administer any drug to delay or stop normal puberty; (2) Prescribe or administer testosterone, estrogen, or progesterone, in amounts greater than would normally be produced endogenously in a healthy individual of the same age and sex; (3) Perform any sterilizing surgery, including

castration, hysterectomy, oophorectomy, orchiectomy, penectomy, and vasectomy; (4) Perform any surgery that artificially constructs tissue having the appearance of genitalia differing from the minor's sex, including metoidioplasty, phalloplasty, and vaginoplasty; or (5) Remove any healthy or non-diseased body part or tissue.” Violations may result in loss of professional license or potential liability for damages in a civil action.

*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

S.D. Codified Laws § 20-9-4.2 provides that “[n]o physician, hospital, or other person assisting in the treatment of a minor may be held liable for providing medical or surgical treatment for a minor without consent of the minor's parent or guardian, if in the opinion of the treating physician, exercising competent medical judgment, the minor's life or health would be threatened by delaying treatment.”

Resources

South Dakota Statutes <https://sdlegislature.gov/Statutes>

South Dakota Administrative Code <https://rules.sd.gov/>

TENNESSEE

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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
- 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

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

Other

- S** Constitution
- S** Emergency Care
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability
- S** Sterilization
- S** Minor Parent, Consent for Child's Care
- S** Parent, Consent for Minor's Treatment
- S** Vaccination

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

Tenn. Code Ann. § 1-3-105 provides that the age of majority is 18.

Emancipation

Tenn. Code Ann. §§ 29-31-101 - 29-31-105 specify the criteria and procedures for emancipation of minors. A minor may apply by next friend to remove disabilities of minority; the court may order partial removal of disabilities of minority for specific acts or may issue an order for general removal. *Tenn. Code Ann. § 36-3-106* provides that marriage emancipates a minor.

Minor Marriage

Tenn. Code Ann. § 36-3-105 prohibits marriage by a minor under age 17 years. A minor age 17 years may marry provided that the other party is less than 4 years older. *Tenn. Code Ann. § 36-3-106* provides that the consent of a parent, guardian, next of kin or person having custody of the minor is required for a minor age 17 years to marry; additional requirements apply if the minor is in the legal custody of an agency or someone other than a parent, guardian, or next of kin.

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**

No specific statute expressly authorizes emancipated minors to consent for their own health care. *Tenn. Code Ann. § 29-31-105* provides that when a court issues an order removing the disabilities of minority it may do so in general, empowering the minor to do all acts the minor could do if age 18, or for specific acts. The decree of emancipation shall distinctly specify to what extent the disabilities of minority are removed.

Married Minor

Tenn. Code Ann. § 68-34-107 provides that contraceptive supplies and information may be furnished by physicians to any minor who is married. *Tenn. Code Ann. § 36-3-106* provides that marriage emancipates a minor, and the minor shall be considered to have all the rights and responsibilities of an adult, except for specific constitutional or statutory age requirements (such as voting).

Minor, Age or Maturity

T.N. Op. Att'y Gen. No. 03-087 (2003) states that "minors have the capacity to consent to medical treatment without their parents' approval if they are able to fully understand and appreciate the risks and probable consequences of their conduct" and minors between the ages of 14 and 18 are presumed to have capacity to consent to medical treatment without their parents' approval, citing *Cardwell v. Bechtol*, 724 S.W.2d 739 (Tenn. 1987) for authority.

In *Cardwell v. Bechtol*, the Supreme Court of Tennessee stated: "Whether a minor has the capacity to consent to medical treatment depends upon the age, ability, experience, education, training, and degree of maturity or judgment obtained by the minor, as well as upon the conduct and demeanor of the minor at the time of the incident involved. Moreover, the totality of the circumstances, the nature of the treatment and its risks or probable consequences, and the minor's ability to appreciate the risks and consequences are to be considered....In our opinion, adoption of the mature minor exception to the general common law rule [requiring parent consent]...would be wholly consistent with the existing

statutory and tort law in this State as part of “the normal course of the growth and development of the law [citations omitted]. Accordingly, we hold that the mature minor exception is part of the common law of Tennessee.” 724 S.W. 2d at 748.

Consultation with counsel is essential to determine the scope of application for this common law rule and how it intersects with statutory law.

Minor Consent–Services

Abortion

Abortion is banned in Tennessee, with a limited exception for medical emergencies. *For up to date information on the status of abortion restrictions in Tennessee, 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 *Tenn. Code Ann. §§ 37-10-301 – 37-10-307* provide that an abortion may not be performed on an unmarried, unemancipated minor under age 18 without the written consent of one parent or legal guardian of the minor. If a criminal charge of incest is pending against a parent of such minor pursuant to § 39-15-302, the written consent of such parent is not required. The law also includes a judicial bypass and a medical emergency exception. In *Roddy v. Volunteer Medical Clinic*, 926 S.W.2d 572 (1996), a minor age 15 years consented to her own abortion, and the medical malpractice suit was unsuccessful in part because plaintiffs failed to rebut presumption that patient was a mature minor with the capacity to consent to the procedure. *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

Tenn. Code Ann. § 68-34-107 provides that contraceptive supplies and information may be furnished by physicians to any minor who is pregnant, a parent, or married, or who has the consent of the minor’s parent or legal guardian, or who has been referred for such service by another physician, a clergy member, a family planning clinic, a school or institution of higher learning, or any agency or instrumentality of this state or any subdivision of the state, or who requests and is in need of birth control procedures, supplies or information. The statute was declared constitutional in *Decker v. Carroll Academy*, 1999 Tenn. App. Lexis 336 (No 02A01-9709-CV-00242), when a mother of a minor child to whom birth control was distributed brought suit against the school.

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

Tenn. Code Ann. § 33-8-104 provides that minors who are emancipated by marriage, court order, or in any other way recognized by law in the state, have all the rights and responsibilities of adults with respect to mental health and developmental disabilities services, unless those rights are restricted by court order.

Tenn. Code Ann. § 33-8-202 provides that if a minor with serious emotional disturbance or mental illness is age 16 years or older, the minor has the same rights as an adult with respect to outpatient mental health treatment, medication decisions, confidential information, and participation in conflict resolution procedures, subject to certain exceptions and that an outpatient facility or professional may provide treatment and rehabilitation without obtaining the consent of the child’s parent, legal guardian, or legal custodian. *Tenn. Code Ann. § 33-1-101* defines “mental illness” and “serious emotional disturbance” for this purpose.

Pregnancy-Related Care

Tenn. Code Ann. § 68-34-107 provides that contraceptive supplies and information may be furnished by physicians to any minor who is pregnant.

Tenn. Code Ann. § 63-6-223 provides that any person licensed to practice medicine may, for the purpose of providing prenatal care, examine, diagnose, and treat a minor without the knowledge or consent of the parents or guardian.

Tenn. Code Ann. § 63-6-223 provides that, for the purpose of providing peripartum care, which may include providing peripartum analgesia, examine, diagnose, and treat a minor who is at least age 14 years without the knowledge or consent of the parents or legal guardian of the minor.

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

Sexually Transmitted Infection/Disease/HIV Care

Tenn. Code Ann. § 68-10-104 provides that any state, district, county, or municipal health officer or any physician, nurse practitioner with a certificate of fitness and an appropriate supervising physician, nurse midwife who is an advanced practice registered nurse under § 63-7-126 and who has an appropriate supervising physician, or physician assistant with an appropriate supervising physician may examine, diagnose, and treat minors infected with sexually transmitted diseases without parental knowledge or consent.

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

Tenn. Code Ann. § 63-6-220 provides that physicians may treat “juvenile drug abusers” who are minors without prior parental consent.

Tenn. Code Ann. § 33-8-104 provides that minors who are emancipated by marriage, court order, or in any other way recognized by law in the state, have all the rights and responsibilities of adults with respect to substance abuse services, unless those rights are restricted by court order.

Tenn. Code Ann. § 33-8-201 provides child who has alcohol or drug dependence may only receive mental health service

or support from the mental health service division if the condition is concurrent with another serious emotional disturbance or mental illness. *Tenn. Code Ann. § 33-8-202* provides that if a minor has alcohol dependence or drug dependence as well as serious emotional disturbance or mental illness and is age 16 years or older, the minor has the same rights as an adult with respect to outpatient mental health treatment, medication decisions, confidential information, and participation in conflict resolution procedures under the mental health services division, subject to certain exceptions and that an outpatient facility or professional may provide treatment and rehabilitation without obtaining the consent of the child’s parent, legal guardian, or legal custodian.

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

Hospital Records

Tenn. Code Ann. § 68-11-304 provides that a “hospital” (defined in § 68-11-302 as an “institution, place, building or agency that has been licensed by the board, as defined in § 68-11-201, or any clinic operated under the authority of a local or regional health department by law, shall furnish to a patient or a patient’s authorized representative such part or parts of the patient’s hospital records without unreasonable delay upon request in writing by the patient or the representative.”

Mental Health

Tenn. Code Ann. § 33-8-202 provides that if a minor with serious emotional disturbance or mental illness who is age 16 years or older consents for outpatient mental health treatment, the minor has the same rights as an adult with respect to confidential information, subject to certain exceptions related to prescription records and danger to self.

Tenn. Code Ann. § 33-3-103 provides that the records and information related to services for serious emotional

disturbance or mental illness under the mental health service division are confidential and may only be disclosed as provided for in §§ 33-3-103 – 33-3-126. *Tenn. Code Ann. § 33-3-104* specifies who may consent to the disclosure of confidential mental health records, which includes a recipient of mental health services who is age 16 years or older. *Tenn. Code Ann. § 33-1-101* defines service recipient for this purpose as a “person who is receiving service, has applied for service, or for whom someone has applied for or proposed service because the person has mental illness, serious emotional disturbance, or a developmental disability[.]”

Prescription Records

Tenn. Code Ann. § 68-11-304 also provides that “[i]f an unemancipated minor receives medical treatment, then the minor’s parent, legal guardian, legal custodian, or other person with medical decision-making authority for the unemancipated minor may access, and a healthcare provider or healthcare facility shall provide access to, any prescription records resulting from medical treatment of the minor, even if the treatment was provided to the unemancipated minor without parental consent, including, but not limited to, treatment provided pursuant to § 68-10-104(c) [sexually transmitted disease], § 68-34-107 [contraceptive supplies and information], § 63-6-220 [drug abuse], § 63-6-222 [emergency], or § 63-6-223 [prenatal and peripartum care]. However, the statute also provides that notwithstanding the above, “a child’s parent, legal guardian, or legal custodian shall not access prescription records resulting from the treatment provided to an unemancipated minor without parental consent, including, but not limited to, treatment provided pursuant to § 68-10-104(c), § 68-34-107, § 63-6-220, § 63-6-222, or § 63-6-223, if the treating professional is required to report abuse of the unemancipated minor pursuant to § 37-1-403 or § 37-1-605, and the treating professional believes that access to the prescription records is reasonably likely to endanger the life or physical safety of the minor.”

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

Tenn. Code An. § 33-3-207 provides that if a mental health professional or service provider has a “duty to warn” about a threat by a patient to an identified victim pursuant to §§ 33-3-201 – 33-3-221, and the patient is an unemancipated minor, the duty may be discharged by informing the unemancipated minor’s parent, guardian, or custodian and meeting other requirements specified in § 33-3-207(c); if making a report to law enforcement, the mental health professional or service provider shall also report information about the threat to the minor’s parent, guardian, or custodian.

Mental Health/Substance Use

Tenn. Code Ann. § 33-8-202 provides that if a minor with serious emotional disturbance or mental illness who is age 16 or older consents for outpatient mental health treatment, the child has the same rights as an adult with respect to confidential information, with the following exceptions: To the extent allowable by federal privacy laws and regulations:

“A child’s parent, legal guardian, or legal custodian may access any prescription records resulting from treatment provided to an unemancipated minor pursuant to this section,” except “a child’s parent, legal guardian, or legal custodian shall not access prescription records resulting from the treatment provided to an unemancipated minor pursuant to this section if the treating professional is required to report abuse of the unemancipated minor pursuant to § 37-1-403 or § 37-1-605, and the treating professional believes that access to the prescription records is reasonably likely to endanger the life or physical safety of the minor.”

As another exception, the statute provides that “[i]f an unemancipated minor communicates suicidal ideations to the treating professional, and the professional, using the reasonable skill, knowledge, and care ordinarily possessed and exercised by the professional’s specialty under similar circumstances, has determined or reasonably should have determined that the unemancipated minor has the apparent ability to attempt suicide and is likely to attempt suicide unless prevented from doing so, then the treating professional shall, in addition to any other duties required by law, report such suicidal ideations to the unemancipated minor’s parent, legal guardian, or legal custodian.”

Pregnancy

Tenn. Code Ann. § 63-6-223 provides that a minor may receive prenatal and peripartum care without the knowledge of their parents or guardian.

Tenn. Code Ann. § 68-11-304 provides that parents have access to a minor’s prescription records held by “hospitals,”

subject to exceptions if the treating professional is required to report abuse and parental access would endanger the minor's life or physical safety.

Sexually Transmitted Disease

Tenn. Code Ann. § 68-10-104 provides that a minor may receive care for sexually transmitted diseases without parental knowledge.

Tenn. Code Ann. § 68-11-304 provides that parents may access and a healthcare provider or healthcare facility shall provide access to a minor's prescription records, subject to exceptions if the treating professional is required to report abuse and parental access would endanger the minor's life or physical safety.

Substance Use

Tenn. Code Ann. § 63-6-220 provides that if a physician treats a minor "drug abuser" without prior parental consent, the physician may use the physician's own discretion in determining whether to notify the minor's parents of such treatment.

Tenn. Code Ann. § 68-11-304 provides that parents may access and a healthcare provider or healthcare facility shall provide access to a minor's prescription records, subject to exceptions if the treating professional is required to report abuse and parental access would endanger the minor's life or physical safety.

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

Tenn. Const. Art I, § 36 provides: "Nothing in this Constitution secures or protects a right to abortion or requires the funding of an abortion. The people retain the right through their elected state representatives and state senators to enact, amend, or repeal statutes regarding abortion, including, but not limited to, circumstances of pregnancy resulting from rape or incest or when necessary to save the life of the mother."

Emergency Care

Tenn. Code Ann. § 63-6-222 provides that a physician may perform emergency medical or surgical treatment on a minor, despite the absence of parental consent or court order, where such physician believes in good faith that delay in rendering emergency care would, to a reasonable degree of medical certainty, result in a serious threat to the life of the minor or a serious worsening of the minor's medical

condition, and that emergency treatment is necessary to save the minor's life or prevent further deterioration of the minor's condition. Such treatment shall be started only after a reasonable effort is made to notify the minor's parent or guardian, if known or readily ascertainable.

Gender Affirming Care, Restriction

Tenn. Code Ann. §§ 68-33-101 – 68-33-109 prohibits specific medical procedures, including surgery, hormones, and puberty blockers, for the purpose of "[e]nabling the minor to identify with, or live as, a purported identity inconsistent with the minor's sex; or [t]reating purported discomfort or distress from a discordance between the minor's sex and asserted identity," subject to certain exceptions. For violations, the law creates a private right of action for parents and minors; authorizes the attorney general to seek injunctive relief and civil penalties; and subjects providers to potential licensing sanctions. A

federal district court temporarily blocked the ban on medication but not surgery; the 6th Circuit Court of Appeals lifted the ban and allowed the law to take effect. *L.W. v. Skirmetti*, 83 F.4th 460 (6th Cir. 2023). The U.S. Supreme Court granted review..

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

Tenn. Code Ann. § 63-6-223 provides that when a physician provides specific prenatal or peripartum care to a minor without the knowledge or consent of the parents or legal guardian, the physician incurs no civil or criminal liability in connection therewith except for negligence.

Tenn. Code Ann. § 68-10-104 provides that when designated practitioners examine, diagnose, or treat a minor infected with an STD without the knowledge or consent of the parents or legal guardian, the physician incurs no civil or criminal liability in connection therewith except for negligence.

Tenn. Code Ann. § 63-6-222 provides that when a physician provides emergency treatment to a minor without the knowledge or consent of the parents or legal guardian, the physician shall not be liable for civil damages, except as may result from negligence.

Minor Parent, Consent for Child's Care

Tenn. Code Ann. § 63-6-229 provides that, in the absence or unavailability of a spouse, any minor is authorized and empowered to consent for such minor's child, either orally or otherwise, to any surgical or medical treatment or procedures not prohibited by law which may be suggested, recommended, prescribed or directed by a duly licensed physician.

Parent, Consent for Minor's Treatment

On May 28, 2024, Tennessee enacted 2023 *Tenn. S.B. 2349*, the "Families Rights and Responsibilities Act." Section 1 of

the Act added *Tenn. Code Ann. § 36-8-103*, which provides, in part: "All parental rights are exclusively reserved to a parent of a child without obstruction by or interference from a government entity, including, but not limited to, the following rights and responsibilities: . . . (3) To make all physical and mental healthcare decisions for the child and consent to all physical and mental health care on the child's behalf, as provided in § 63-1-173; (4) To access and review all health and medical records of the child[.]" Section 2 of the Act added *Tenn. Code. Ann. § 63-1-173*, which provides in part, subject to various exceptions: "Except as otherwise provided by statutory law, case law, or court order, a government entity, a healthcare provider, or any other person shall not knowingly take any of the following actions with regard to a minor without first obtaining the consent of a parent of the minor: (1) Treat, profess to diagnose, operate on, or prescribe for any physical ailment, physical injury, or deformity; (2) Prescribe, dispense, deliver, or administer any drug or medication; (3) Render psychological services specified in §§ 63-11-202 and 63-11-203; or (4) Render counseling services specified in § 63-22-122."

Consultation with counsel is essential to determine the scope of application for this new law and how it intersects with other law.

Vaccination

Tenn. Code Ann. § 63-1-165 provides: "A healthcare provider shall not provide a vaccination to a minor unless the healthcare provider first receives informed consent from a parent or legal guardian of the minor. The healthcare provider shall document receipt of, and include in the minor's medical record proof of, such prior parental or guardian informed consent." The section also provides that to the extent it conflicts with another law, this section controls.

Tenn. Code Ann. § 14-4-103 provides that a healthcare provider shall not provide a patient who is a minor with a COVID-19 vaccine without first obtaining written consent from the minor patient's parent or legal guardian.

Resources

Tennessee Codes <https://www.tncourts.gov/Tennessee%20Code>

Tennessee Rules and Regulations <https://sos.tn.gov/publications/services/effective-rules-and-regulations-of-the-state-of-tennessee>

TEXAS

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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
- S** Reportable, Communicable, Infectious Disease Care
- S** Sexual Assault Care
- S** **F** Sexually Transmitted Infection/Disease/HIV Care
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Confidentiality and Disclosure

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

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

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>

UTAH

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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

- 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
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- S F Confidentiality/Access to Records
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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/>

VERMONT

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See glossary for explanation of categories and definitions of terms.

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- S Constitution
- S "Conversion Therapy," Ban⁴
- S Emergency Care
- Gender Affirming Care
- S Reproductive Freedom
- S Schools, Condom Availability
- S Shield Laws

Key

State law found⁵

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

Vt. Stat. Ann. tit. 1, § 173 provides that the age of majority is 18.

Emancipation

Vt. Stat. Ann. tit. 12, § 7151 provides that a minor who is married, is on active duty with the U.S. Armed Forces or who has a court order of emancipation is emancipated -and provides criteria and procedures to obtain a court order. To obtain a court order of emancipation, a minor must be age 16 years or older, living apart from parents, custodian, or legal guardian for three months or longer, and managing their own financial affairs, has demonstrated the

ability to be self-sufficient, has a high school diploma or the equivalent, and is not under supervision or in custody of the Commissioner of Children and Families or the Commissioner of Corrections.

Minor Marriage

Vt. Stat. Ann. tit. 18, § 5142 provides that that persons under age 18 are not authorized to marry. *Vt. Stat. Ann. tit. 12, § 7151* provides that a minor who has entered into a valid marriage prior to July 1, 2023, whether or not such marriage was terminated by dissolution, is an emancipated minor.

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**

Vt. Stat. Ann. tit. 12, § 7156 provides that a court order of emancipation shall recognize a minor as an adult for all purposes that result from reaching the age of majority.

Married Minor

Vt. Stat. Ann. tit. 12, § 7151 provides that a minor who has entered into a valid marriage prior to July 1, 2023, whether or not such marriage was terminated by dissolution, is an emancipated minor.

Minor in Armed Forces

Vt. Stat. Ann. tit. 12, § 7151 provides that a minor on active duty in the U.S. Armed Forces is considered emancipated.

Minor Consent—Services**Abortion**

Abortion is legal and protected in Vermont. *Vt. Stat. Ann. tit. 18, § 9493* provides that "[t]he State of Vermont recognizes the fundamental right of every individual who becomes pregnant to choose to carry a pregnancy to term, to give birth to a child, or to have an abortion." *Vt. Const. Ch. I, Art. 22* provides that "an individual's right to personal reproductive autonomy is central to the liberty and dignity to determine one's own life course and shall not be denied or infringed unless justified by a compelling State interest achieved by the least restrictive means." Minors may consent to abortion, and neither parental notice or consent is required. *For up to date information on the status of abortion restrictions and protections in Vermont, see [Center for Reproductive Rights, After Roe Fell: 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 in Vermont to consent to contraception. *Vt. Stat. Ann. tit. 18, § 9493* provides that “[t]he State of Vermont recognizes the fundamental right of every individual to choose or refuse contraception or sterilization.”

See [Appendix I](#) for information about the Title X Family Planning Program and minor consent for family planning services and contraception. See [Appendix C](#) for discussion of contraception and the U.S. Constitution.

Outpatient Mental Health Care

Vt. Stat. Ann. tit. 18, § 8350 provides that a minor may give consent to receive any “legally authorized outpatient treatment from a mental health professional,” as defined in *tit. 18, § 7101*. Consent shall not be subject to disaffirmance due to minority. The consent of a parent or legal guardian shall not be necessary to authorize outpatient treatment. As used in this section, “outpatient treatment” means “psychotherapy and other counseling services that are supportive, but not prescription drugs.”

Pregnancy-Related Care

No statute expressly authorizes minors in Vermont to consent to pregnancy care. *Vt. Stat. Ann. tit. 18, § 9493* provides that “[t]he State of Vermont recognizes the fundamental right of every individual who becomes pregnant to choose to carry a pregnancy to term, to give birth to a child, or to have an abortion.”

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

Sexually Transmitted Infection/Disease/HIV Care

Vt. Stat. Ann. tit. 18, § 4226 provides that if a minor age 12 or older is suspected of having a “venereal disease,” and the disease is verified by a physician, the minor may consent for medical treatment and hospitalization. The consent of a parent or guardian is not necessary. *Vt. Stat. Ann. tit. 18, § 1091* provides that “venereal disease” means syphilis, gonorrhea, and any other sexually transmitted disease that the Department finds to be of significance and amenable to control.

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

Vt. Stat. Ann. tit. 18, § 4226 provides that if a minor age 12 or older is suspected to be “dependent upon regulated drugs” or to be an “alcoholic,” and this dependency or alcoholism is verified by a physician, the minor may consent for medical treatment and hospitalization. Furthermore, the minor may receive non-medical inpatient or outpatient treatment at an approved program, if deemed necessary by the examining physician for diagnosis or treatment of the dependency. The consent of the 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

Mental Health

Vt. Stat. Ann. tit. 18, § 7103 provides that records and clinical information about an individual for who mental health care has been sought or provided under Vt. Stat. Ann. tit. 18, Part 8, shall be confidential and disclosed only as specified in the statute.

Protected Health Information

Vt. Stat. Ann. tit. 18, § 1881 provides that a “covered entity” as defined by HIPAA shall not disclose protected health information unless the disclosure is permitted under HIPAA.

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

Sexually Transmitted Infection/HIV, Substance Use

Vt. Stat. Ann. tit. 18, § 4226 provides that if a minor has consented for treatment of “venereal disease” or drug or alcohol dependency, the physician shall notify the parents or guardian if the minor requires immediate hospitalization for drug usage, alcoholism, or the treatment of a venereal disease.

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

Vt. Const. Ch. I, Art. 22: provides that “an individual’s right to personal reproductive autonomy is central to the liberty and dignity to determine one’s own life course and shall not be denied or infringed unless justified by a compelling State interest achieved by the least restrictive means.”

“Conversion Therapy,” Ban

For up to date information on the status of statutes or case law that ban conversion therapy for minors, or prohibit state entities from banning conversion therapy for minors, see Movement Advancement Project’s [“Equality Maps: Conversion ‘Therapy’ Laws.”](#) These laws are changing rapidly so consultation with counsel is essential.

Emergency Care

Vt. Stat. Ann. tit. 12, § 1909(b) provides that the right of action to recover for medical malpractice based on a lack of informed consent shall not apply in the case of an emergency.

Gender Affirming Care

There are no restrictions on access to gender affirming care in Vermont law at this time.

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.

Reproductive Freedom

Vt. Stat. Ann. tit. 18, § 9493 provides that “(a)The State of Vermont recognizes the fundamental right of every individual to choose or refuse contraception or sterilization. (b) The State of Vermont recognizes the fundamental right of every individual who becomes pregnant to choose to carry a pregnancy to term, to give birth to a child, or to have an abortion.”

Vt. Const. Ch. I, Art. 22 provides that “an individual’s right to personal reproductive autonomy is central to the liberty and dignity to determine one’s own life course and shall not be denied or infringed unless justified by a compelling State interest achieved by the least restrictive means.”

Schools, Condom Availability

Vt. Stat. Ann. tit. 16 § 132 provides that “[i]n order to prevent or reduce unintended pregnancies and sexually transmitted diseases, each school district shall make condoms available to all students in its secondary schools, free of charge. School district administrative teams, in consultation with school district nursing staff, shall determine the best manner in which to make condoms available to students. At a minimum, condoms shall be placed in locations that are safe and readily accessible to students, including the school nurse’s office.”

Shield Laws

In 2023, Vermont passed ([H.89](#)), “An act relating to civil and criminal procedures concerning legally protected health care activity.” which includes protections designed to shield health care providers and patients in connection with providing and receiving legally protected health care, including reproductive health care and gender-affirming health care in the state. *Vt. Stat. Ann. tit. 1, §150* defines “reproductive health care services” and “gender-affirming health care services” for this purpose. Examples of the statutes containing these protections include: *Vt Stat. Ann. tit. 12 §§ 141, 7301 – 7306; tit, 13, §§ 1033, 4790, 6650.*

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

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

Resources

Vermont Statutes <https://legislature.vermont.gov/statutes/>

VIRGINIA

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- S Minor Marriage

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- Minor, Age or Maturity
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- Minor Parent
- Minor in State Custody
- Pregnant Minor

Other

- S "Conversion Therapy," Ban⁴
- S Emergency Care
- S Financial Responsibility
- Gender Affirming Care
- S Minor Parent, Consent for Child's Care

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

Va. Code Ann. § 1-204 provides that for the purpose of all laws of the Commonwealth, including common law, case law, and the acts of the General Assembly, unless an exception is specifically provided in this Code, a person is an adult and has reached the age of majority when he or she becomes 18 years of age.

Emancipation

Va. Code Ann. § 16.1-331 provides that a minor age 16 years or older may petition the court for a declaration of emancipation. *Va. Code Ann. § 16.1-333* specifies what a petition for emancipation must include. *Va. Code Ann. § 16.1-333.1* provides the court may enter an order declaring the minor emancipated if, after a hearing, it is found that: (i) the minor has entered into a valid marriage, whether or

not that marriage has been terminated by dissolution; (ii) the minor is on active duty with any of the armed forces of the United States of America; (iii) the minor willingly lives separate and apart from his parents or guardian, with the consent or acquiescence of the parents or guardian, and that the minor is or is capable of supporting himself and competently managing his own financial affairs; or (iv) the minor desires to enter into a valid marriage and the requirements of § 16.1-333.1 are met.

Minor Marriage

Va. Code Ann. § 20-48 provides that the minimum age at which persons may marry is 18 years, unless a minor has been emancipated by court order. Upon application for a marriage license, an emancipated minor shall provide a certified copy of the order of emancipation.

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**

Va. Code Ann. § 16.1-334 provides that an emancipated minor may consent for medical, dental, or psychiatric care without parental consent or knowledge or liability.

Married Minor

Va. Code Ann. § 54.1-2969(F) provides that, except for the purposes of sexual sterilization, any minor who is or has been married may consent for surgical and medical treatment.

Minor Consent—Services**Abortion**

Abortion is legal but not protected in Virginia, and there are numerous restrictions, although some restrictions were repealed in 2020. For up to date information on the status of abortion restrictions and protections in Virginia, 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 *Va. Code Ann. § 54.1-2969(J)* provides that a minor may not consent for an abortion except through *Va. Code Ann. § 16.1-241*. *Va. Code Ann. § 16.1-241(W)* provides that an abortion may not be performed on an unmarried, "unemancipated minor" without consent of a parent or legal guardian or person standing in loco parentis. Consent requires either a

notarized, written statement consenting to the abortion after notice from a physician, or in person written authorization. An “unemancipated minor” means a minor who is not serving in the military, is not living apart from her parents with parental consent or acquiescence, and has not been emancipated by a court. The law includes a judicial bypass, a medical emergency exception, and an exception for reported cases of abuse and neglect. *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

Va. Code Ann. § 54.1-2969(E) provides that a minor may consent for medical or health services required for birth control or family planning, except for 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

Va. Code Ann. § 54.1-2969(E) provides that a minor may consent for medical or health services for outpatient care, treatment, or rehabilitation for “mental illness or emotional disturbance.”

Pregnancy-Related Care

Va. Code Ann. § 54.1-2969(G) provides that a pregnant minor shall be deemed an adult for the purpose of giving consent for surgical and medical treatment relating to the delivery of the child when such surgical or medical treatment is provided during delivery of the child or the duration of the hospital admission for such delivery.

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

Va. Code Ann. § 54.1-2969(E) provides that a minor may consent for medical or health services needed to determine the presence of or to treat any “infectious or contagious disease” which the State Board of Health requires to be reported.

Va. Code Ann. § 32.1-116.3 defines “communicable diseases” as any airborne infection or disease, including, but not limited to, tuberculosis, measles, certain meningococcal infections, mumps, chicken pox and

Hemophilus Influenzae Type b, and those transmitted by contact with blood or other human body fluids, including, but not limited to, human immunodeficiency virus, Hepatitis B and Non-A, Non-B Hepatitis.

Sexually Transmitted Infection/Disease/HIV Care

Va. Code Ann. § 54.1-2969(E) provides that a minor may consent for medical or health services needed to determine the presence of or to treat venereal disease or any infectious or contagious disease which the State Board of Health requires to be reported.

Va. Code Ann. § 32.1-116.3 defines “communicable diseases” as any airborne infection or disease, including, but not limited to, tuberculosis, measles, certain meningococcal infections, mumps, chicken pox and Hemophilus Influenzae Type b, and those transmitted by contact with blood or other human body fluids, including, but not limited to, human immunodeficiency virus, Hepatitis B and Non-A, Non-B Hepatitis.

Va. Code Ann. § 32.1-116.3 provides that HIV is a communicable disease. Va. Code Ann. § 32.1-37.2 provides that prior to performing any test to determine HIV infection, the informed consent of the test subject must be obtained. Every person with a confirmed positive result shall be afforded the opportunity for appropriate counseling.

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

Va. Code Ann. § 54.1-2969(E) provides that a minor may consent for medical or health services for outpatient care, treatment, or rehabilitation for substance abuse, as defined in Va. Code Ann. § 37.2-100, which provides that “substance abuse” means the use of drugs, enumerated in the Virginia Drug Control Act (§ 54.1-3400 et seq.), without a compelling medical reason or alcohol that (i) results in psychological or physiological dependence or danger to self or others as a function of continued and compulsive use or (ii) results in mental, emotional, or physical impairment that causes socially dysfunctional or socially disordering behavior and (iii), because of such substance abuse, requires care and treatment for the health of the individual. This care and treatment may include counseling, rehabilitation, or medical or psychiatric care.

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/Medical Record

Va. Code § 32.1-127.1:03 recognizes an individual’s right of privacy in the content of their health records and prohibits disclosure except when permitted or required by this section or other provisions of state law.

Va. Code Ann. § 32.1-127.1:03(D) provides that a minor shall be deemed an adult for the purpose of accessing or authorizing the disclosure of medical records related to *Va. Code Ann. § 54.1-2969(E)(1)-(4)* [minor consent for venereal disease, reportable communicable disease, substance abuse, mental illness or emotional disturbance].

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

Emancipated Minor

Va. Code Ann. § 16.1-334 provides that an emancipated minor may consent for medical, dental, or psychiatric care without parental knowledge.

Substance Use

Va. Code Ann. § 54.1-2969(K) provides that *Va. Code Ann. § 54.1-2969* (which allows a minor to consent for care, treatment, or rehabilitation for substance abuse) does not prevent a parent, legal guardian, or person standing *in loco parentis* from obtaining the results of a minor’s nondiagnostic drug test when the minor is not receiving care, treatment, or rehabilitation for substance abuse. *Va. Code Ann. § 54.1-2969(K)* also provides that *Va. Code Ann. § 54.1-2969* does not prevent a parent, legal guardian, or person standing *in loco parentis* from obtaining the minor’s other health records, except when the minor’s treating physician or clinical psychologist has determined, in the exercise of professional judgment, that the disclosure of health records would be reasonably likely to cause substantial harm to the minor or another person.

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 conversion 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

Va. Code Ann. § 54.1-2969(C) provides that whenever delay in providing medical or surgical treatment to a minor may adversely affect such minor's recovery and no person authorized in this section to consent for such treatment for such minor is available within a reasonable time under the circumstances, no liability shall be imposed upon qualified emergency medical services personnel at the scene of an accident, fire, or other emergency, a licensed health professional, or a licensed hospital by reason of lack of consent for such medical or surgical treatment. In the case of a minor age 14 or older who is physically capable of giving consent, such consent shall be obtained first.

Va. Admin. Code tit. 18, §§ 85-20-28, 85-40-87, and 85-50-178 provide that parental consent is not required prior to performance of surgery or invasive procedure by, in order of statute: (i) an osteopathic practitioner, podiatrist, or chiropractor; (ii) a respiratory care practitioner; or (iii) a physician assistant if in an emergency situation when a delay in obtaining consent would likely result in imminent harm to the patient. Va. Admin. Code tit. 18, §§ 85-20-28, 85-40-87, and 85-50-178 define invasive procedure to

mean any diagnostic or therapeutic procedure performed on a patient that is not part of routine, general care or for which the usual practice within the health care entity is to document specific informed consent from the patient prior to proceeding.

Financial Responsibility

Va. Code Ann. § 16.1-334 provides that an emancipated minor may consent for medical, dental, or psychiatric care without parental consent or knowledge or liability.

Gender Affirming Care

There are no restrictions on access to gender affirming care in Virginia law at this time.

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**.

Minor Parent, Consent for Child's Care

Va. Code Ann. § 54.1-2969(G) provides that a minor mother of a child shall be deemed an adult for the purpose of giving consent for surgical and medical treatment for her child.

Resources

Code of Virginia <https://law.lis.virginia.gov/vacode/>

Virginia Administrative Code <https://law.lis.virginia.gov/admincode/>

WASHINGTON

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- S** Constitution
- S** "Conversion Therapy," Ban⁴
- S** Emergency Care
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- Gender Affirming Care
- S** Reproductive Freedom
- S** Shield Laws

Key

State law found⁵

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

Wash. Rev. Code § 26.28.010 provides that the age of majority is 18 years.

Emancipation

Wash. Rev. Code §§ 13.64.010 – 13.64.080 establish a procedure and criteria for minors age 16 years or older to petition a court for a declaration of emancipation; the petition must declare that the minor has the ability to manage their financial affairs, including any supporting

information; and that the minor has the ability to manage his or her personal, social, educational, and nonfinancial affairs, including any supporting information. *Wash. Rev. Code § 13.64.060* describes the powers that emancipation bestows.

Minor Marriage

Wash. Rev. Code § 26.04.010 provides that the minimum age for marriage is 18 years.

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**

Wash. Rev. Code § 13.64.060 provides that an emancipated minor has the right to give informed consent for health care services.

Minor, Age or Maturity

The Washington Supreme Court found, in *Smith v. Seibly*, 72 Wn. 2d 16 (1967), that "[a] married minor, 18 years of age, who has successfully completed high school and is the head of his own family, who earns his own living and maintains his own home, is emancipated for the purpose of giving a valid consent to surgery if a full disclosure of the ramifications, implications and probable consequences of the surgery has been made by the doctor in terms which are fully comprehensible to the minor. Thus, age, intelligence, maturity, training, experience, economic independence or lack thereof, general conduct as an adult and freedom from the control of parents are all factors to be considered in such a case."

Minor Living Apart from Parent/Guardian

Wash. Rev. Code § 7.70.065(3) provides that an

"unaccompanied homeless youth who is under the age of majority, who is not otherwise authorized to provide informed consent, and is unable to obtain informed consent [from a school nurse, school counselor or homeless student liaison] is authorized to provide informed consent for nonemergency, outpatient, primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries."

The statute defines "unaccompanied" as meaning "a youth experiencing homelessness while not in the physical custody of a parent or guardian" and "homeless" as meaning "without a fixed, regular, and adequate nighttime residence as set forth in the federal McKinney-Vento homeless education assistance improvements act of 2001."

The statute provides that a health care facility or a health care provider may, in its discretion, require documentation that the minor patient is an unaccompanied homeless youth. However, there is no obligation to require such

documentation. Acceptable documentation that a minor patient is an unaccompanied homeless youth includes a written or electronic statement signed under penalty of perjury by: staff at a governmental or nonprofit human services agency or homeless services agency; an attorney representing the minor patient; or an adult relative of the minor patient or other adult with knowledge of the minor patient and the minor patient's housing situation.

Minor Consent—Services

Abortion

Abortion is legal and protected in Washington. *Wash. Rev. Code* § 9.02.100 provides that “[t]he sovereign people hereby declare that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Accordingly, it is the public policy of the state of Washington that: . . . [e]very pregnant individual has the fundamental right to choose or refuse to have an abortion,” which may only be limited or interfered with by the state as specified in *Wash. Rev. Code* §§ 9.02.100 – 9.02.170 and 9.02.900 – 9.02.902. For up to date information on the status of abortion protections and restrictions in Washington, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

To the extent abortion is legally permitted, minors may obtain an abortion. Minors may consent to abortion and parental notice or consent is not required. In *State v. Koome*, 530 P.2d 260 (1975), the Washington Supreme Court held that the absolute parental veto over minor's abortion in *Wash. Rev. Code* § 902.070 (subsequently repealed) was an unconstitutional violation of a minor's due process privacy and equal protection rights under the U.S. Constitution and the Washington Constitution.

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 consent to family planning. However, *Wash. Rev. Code* § 9.02.100 provides that every individual has the fundamental right to choose or refuse birth control.

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

Wash. Rev. Code § 71.34.530 provides that “any adolescent” age 13 years or older may request and receive outpatient behavioral health services without the consent of the adolescent's parent.

Wash. Rev. Code § 71.34.020 defines an adolescent for this purpose. *Wash. Rev. Code* § 71.24.025 defines “behavioral health services” to include mental health services, substance use disorder treatment services, and co-occurring disorder treatment services.

Wash. Rev. Code § 71.34.530 provides that for minors under the age of 13, authorization from a parent or other person authorized to consent on behalf of the minor pursuant to *Wash. Rev. Code* § 7.70.065, is required for outpatient treatment. *Wash. Rev. Code* § 7.70.065 includes a list of individuals who are allowed to provide consent for a minor if a parent is not available.

Pregnancy-Related Care

No statute expressly authorizes minors to consent for pregnancy-related care. However, in *State v. Koome*, 530 P.2d 260, 267 (1975), the Washington Supreme Court held that a law allowing a parent the right to veto one type of pregnancy care (abortion) was an unconstitutional violation of a minor's due process privacy and equal protection rights under the U.S. Constitution and the Washington Constitution and concluded that the state could only legislate a minor's pregnancy if the “statutory scheme... protected them without sacrificing the privacy rights of pregnant minor women.”

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

Sexually Transmitted Infection/Disease/HIV Care

Wash. Rev. Code § 70.24.110 provides that a minor age 14 or older who may have come in contact with any sexually transmitted disease may consent for hospital, medical, and surgical care related to the diagnosis or treatment of sexually transmitted diseases; and treatment to avoid HIV infection. The consent of the parents or guardian is not necessary. Parents shall not be liable for payment for services rendered under this section.

Wash. Rev. Code § 70.24.017 defines sexually transmitted diseases and specifies a list, which includes HIV, and which the Board of Health is authorized to add to based on recommendations of the CDC and other nationally recognized medical authorities.

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

Wash. Rev. Code § 71.34.530 provides that “any adolescent” age 13 years or older may request and receive outpatient behavioral health services without the consent of the adolescent's parent.

Wash. Rev. Code § 71.34.020 defines an adolescent for this purpose. *Wash. Rev. Code* § 71.24.025 defines

“behavioral health services” to include mental health services, substance use disorder treatment services, and co-occurring disorder treatment services.

Wash. Rev. Code § 71.34.530 provides that for minors under the age of 13, authorization from a parent or other person authorized to consent on behalf of the minor pursuant to *Wash. Rev. Code § 7.70.065*, is required for outpatient treatment. *Wash. Rev. Code § 7.70.065* includes a list of individuals who are allowed to provide consent for a minor if a parent is not available.

Wash. Rev. Code § 71.34.500 provides that adolescents age 13 years or older may admit themselves to an approved substance use disorder treatment program for inpatient substance use disorder treatment without parental consent. *Wash. Rev. Code § 71.34.020* defines an adolescent for this

purpose. The admission shall occur only if the professional person in charge of the facility concurs with the need for inpatient treatment. Parental authorization, or authorization from a person who may consent on behalf of the minor pursuant to *Wash. Rev. Code § 7.70.065*, is required for inpatient treatment of a minor under the age 13 years.

Wash. Rev. Code § 7.70.065 includes a list of individuals who are allowed to provide consent for a minor if a parent is not available. When, in the judgment of the professional person in charge of an approved substance use disorder treatment program, there is reason to believe that a minor is in need of inpatient treatment because of a behavioral health disorder, and the facility provides the type of evaluation and treatment needed by the minor, and it is not feasible to treat the minor in any less restrictive setting or the minor's home, the minor may be admitted to the facility.

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 Care Information Access/Disclosure

Wash. Rev. Code § 70.02.130 provides that “[a] person authorized to consent for health care for another may exercise the rights of that person with respect to health care information access and disclosure. If the patient is a minor and is authorized to consent for health care without parental consent under federal and state law, only the minor may exercise the rights of a patient [under the Uniform Health Care Information Act, *Wash. Rev. Code §§ 70.02.005 – 70.02.904*] as to information pertaining to health care to which the minor lawfully consented. In cases where

parental consent is required, a health care provider may rely, without incurring any civil or criminal liability for such reliance, on the representation of a parent that he or she is authorized to consent for health care for the minor patient.”

Wash. Admin. Code § 284-04-510 provides that a minor who may obtain health care without the consent of a parent or legal guardian under state or federal law may exclusively exercise the rights to limit disclosure of health information. These rights include the right to request that disclosure not be made to specific individuals and that information about certain services (reproductive health, sexually transmitted disease, chemical dependency, and mental health) not

be disclosed including through appointment notices, appointment confirmation calls, bills, and explanations of benefits.

Mental Health

Wash. Rev. Code § 70.02.240 provides for the confidentiality of information about mental health services for a minor under *Wash. Rev. Code chapter 71.34* and specifies when the information may be disclosed to the minor, the minor's parent, and others.

Wash. Rev. Code § 70.02.265 provides: "When an adolescent voluntarily consents to his or her own mental health treatment under *RCW 71.34.500* or *71.34.530*, a mental health professional shall not proactively exercise his or her discretion under *RCW 70.02.240* to release information or records related to solely mental health services received by the adolescent to a parent of the adolescent, beyond any notification required under *RCW 71.34.510*, unless the adolescent states a clear desire to do so which is documented by the mental health professional, except in situations concerning an imminent threat to the health and safety of the adolescent or others, or as otherwise may be required by law."

Sexually Transmitted Disease

Wash. Rev. Code § 70.02.220 provides that no person may disclose or be compelled to disclose information and records related to sexually transmitted diseases, except as authorized by this section, *Wash. Rev. Code §§ 70.02.210, 70.02.205, or Rev. Code Ch. 70.24*. A person may disclose information related to sexually transmitted diseases about a patient without the patient's authorization, to the extent a recipient needs to know the information, if the disclosure is to the subject of the test or the subject's legal representative for health care decisions in accordance with *Wash. Rev. Code § 7.70.065*, with the exception of such a representative of a minor fourteen years of age or over and otherwise capable of making health care decisions.

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

Wash. Rev. Code § 71.34.430 provides that a mental health agency, psychiatric hospital, or evaluation and treatment facility may release mental health information about an adolescent to a parent of the adolescent without the consent of the adolescent by following the limitations and restrictions of *Wash. Rev. Code §§ 70.02.240 and 70.02.265*.

Wash. Rev. Code § 70.02.265 provides:

"(1) (a) When an adolescent voluntarily consents to his or her own mental health treatment under *Wash. Rev. Code §§ 71.34.500 or 71.34.520*, a mental health professional shall not proactively exercise his or her discretion under *Wash. Rev. Code § 70.02.240* to release information or records related to solely mental health services received by the adolescent to a parent of the adolescent, beyond any notification required under *Wash. Rev. Code § 71.34.510*, unless the adolescent states a clear desire to do so which is documented by the mental health professional, except in situations concerning an imminent threat to the health and safety of the adolescent or others, or as otherwise may be required by law.

(b) In the event a mental health professional discloses information or releases records, or both, that relate solely to mental health services of an adolescent, to a parent pursuant to *Wash. Rev. Code § 70.02.240*, the mental health professional must provide notice of this disclosure to the adolescent and the adolescent must have a reasonable opportunity to express any concerns about this disclosure to the mental health professional prior to the disclosure of the information or records related solely to mental health services. The mental health professional shall document any objections to disclosure in the adolescent's medical record if the mental health professional subsequently discloses information or records related solely to mental health services over the objection of the adolescent."

Wash. Rev. Code § 70.02.240 provides that the fact of admission and all information and records related to mental health services obtained by a minor through inpatient and outpatient treatment of a minor must be kept confidential and specifies in detail the situations in which the information may be disclosed, including to "the minor, the minor's parent, including those acting as a parent . . . for purposes of family-initiated treatment, and the minor's attorney."

Wash. Admin. Code § 246-924-363 provides that a psychologist, for clients age 13 to 18 years, shall safeguard the confidential information obtained in the course of practice, teaching, research, or other professional duties. Subject to exceptions specified in the section, the psychologist shall disclose confidential information to others only with the informed written consent of the client.

Wash. Admin. Code § 246-924-363 provides that a psychologist, for clients 13 to 18 years, shall clarify limits to confidentiality between the minor and legal guardian at the beginning of any service and that a psychologist will act in the minor client's best interests in deciding whether to disclose confidential information to the legal guardians without the minor's consent.

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

Wash. Admin. Code § 284-04-510 provides:

"(1)(a) Notwithstanding other provisions of Wash. Rev. Code Title 284, Chapter 4, a licensee shall limit disclosure of any information, including health information, about an individual who is the subject of the information if the individual clearly states in writing that disclosure to specified individuals of all or part of that information could jeopardize the safety of the individual. Disclosure of information under this subsection shall be limited consistent with the individual's request, such as a request for the licensee to not release any information to a spouse to prevent domestic violence. (b) Whenever the licensee is a health carrier, as defined in Wash. Rev. Code § 284-43-0160, and the request relates to a protected individual, as defined in Wash. Rev. Code § 48.43.005, the health carrier must follow Wash. Rev. Code § 48.43.505.

(2) (a) Notwithstanding any insurance law requiring the disclosure of information, a licensee shall not disclose nonpublic personal health information concerning health services related to reproductive health, sexually transmitted diseases, chemical dependency and mental health,

including mailing appointment notices, calling the home to confirm appointments, or mailing a bill or explanation of benefits to a policyholder or certificate holder, if the individual who is the subject of the information makes a written request. In addition, a licensee shall not require an adult individual to obtain the policyholder's or other covered person's authorization to receive health care services or to submit a claim. (b) Whenever the licensee is also a health carrier, as defined in Wash. Rev. Code § 284-43-0160, and the request relates to a protected individual, as defined in Wash. Rev. Code § 48.43.005, the health carrier must follow Wash. Rev. Code § 48.43.005.

(3) (a) A licensee shall recognize the right of any minor who may obtain health care without the consent of a parent or legal guardian pursuant to state or federal law, to exclusively exercise rights granted under this section regarding health information; and

(b) Shall not disclose any nonpublic personal health information related to any health care service to which the minor has lawfully consented, including mailing appointment notices, calling the home to confirm appointments, or mailing a bill or explanation of benefits to a policyholder or other covered person, without the express authorization of the minor. In addition, a licensee shall not require the minor to obtain the policyholder's or other covered person's authorization to receive health care services or to submit a claim as to health care which the minor may obtain without parental consent under state or federal law; and

(c) Whenever the licensee is also a health carrier, as defined in Wash. Rev. Code § 284-43-0160, the health carrier must follow Wash. Rev. Code § 48.43.005.

(4) When requesting nondisclosure, the individual shall include in the request:

(a) Their name and address;

(b) Description of the type of information that should not be disclosed;

(c) In the case of reproductive health information, the type of services subject to nondisclosure;

(d) The identity or description of the types of persons from whom information should be withheld;

(e) Information as to how payment will be made for any benefit cost sharing;

(f) A phone number or email address where the individual may be reached if additional information or clarification is necessary to satisfy the request.

(5) Where the licensee is required to follow Wash. Rev. Code § 48.43.005, the nondisclosure request shall be made using the form in Wash. Rev. Code § 48.43.005(4)."

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

Wash. Const. Art. I, § 3 states: “No person shall be deprived of life, liberty, or property, without due process of law.”
Wash. Const. Art. I, § 12 states: “No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.”

In *State v. Koome*, 530 P.2d 260 (1975), the Washington Supreme Court held that the absolute parental veto over minor’s abortion in *Wash. Rev. Code § 902.070* (subsequently repealed) was an unconstitutional violation of a minor’s due process privacy and equal protection rights under the U.S. Constitution and *Art. I, §§ 3 and 12* of the Washington Constitution.

“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

Wash. Rev. Code. § 18.71.220 provides that a physician or hospital shall not be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical, surgical, hospital, or health services to any individual regardless of age where its patient is unable to give his or her consent for any reason and there is no other person reasonably available who is legally authorized to consent for the providing of such care, provided that such physician or hospital has acted in good faith and without knowledge of facts negating consent.

Financial Responsibility

Wash. Rev. Code § 70.24.110 provides that a minor age 14 or older who may have come in contact with any sexually transmitted disease may consent for hospital, medical, and surgical care related to the diagnosis or treatment of sexually transmitted diseases; and treatment to avoid HIV infection. The consent of the parents or guardian is not necessary. Parents shall not be liable for payment for services rendered under this section.

Gender Affirming Care

There are no restrictions on access to gender affirming care in Washington law at this time.

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](#).

Reproductive Freedom

Wash. Rev. Code § 9.02.100 provides that “[t]he sovereign people hereby declare that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Accordingly, it is the public policy of the state of Washington that:

- (1) Every individual has the fundamental right to choose or refuse birth control;
- (2) Every pregnant individual has the fundamental right to choose or refuse to have an abortion, except as specifically limited by *Wash. Rev. Code §§ 9.02.100 – 9.02.170* and *§§ 9.01.900 – 9.01.902*.
- (3) Except as specifically permitted by *Wash. Rev. Code §§ 9.02.100 – 9.02.170* and *§§ 9.01.900 – 9.01.902*, through 9.02.902, the state shall not deny or interfere with a pregnant individual’s fundamental right to choose or refuse to have an abortion; and
- (4) The state shall not discriminate against the exercise of these rights in the regulation or provision of benefits, facilities, services, or information.”

Shield Laws

In 2023, Washington enacted its “shield law,” *H.B. 1469*, the which includes protections designed to shield health care providers when they legally provide “protected health care services,” which include “reproductive health care services” and “gender-affirming treatment” that are lawful in the state of Washington. The statute defines these terms for this purpose. Examples of these protections include, but are not limited to: *Wash. Rev. Code § 5.51.020* (subpoenas), *§ 9.73.040* (protection of communications), *§ 9.73.260* (electronic tracking), and *§ 10.88.250* (extradition).

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

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

Resources

Revised Code of Washington <https://apps.leg.wa.gov/rcw/>

Washington Administrative Code <https://apps.leg.wa.gov/wac/>

WEST VIRGINIA

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- Pregnant Minor

Other

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- S Gender Affirming Care, Restriction
- S Good Faith Reliance/Immunity from Liability

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

W. Va. Code § 2-3-1 provides that the age of majority is 18 years.

Emancipation

W. Va. Code § 49-4-115 specifies the criteria and procedures for a minor to be declared emancipated and provides that an emancipated minor has all of the privileges, rights, and duties of an adult.

Minor Marriage

W. Va. Code § 48-2-301 provides that marriage of a minor age 16 or 17 years requires the written consent of a parent or parents or of the legal guardian or guardians of the minor as well as the minor. *W. Va. Code § 49-4-115* provide that a minor over age 16 who marries is emancipated as a matter of law and that an emancipated minor has all of the privileges, rights, and duties of an adult.

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**

W. Va. Code § 49-4-115 provides that an emancipated minor has all of the privileges, rights, and duties of an adult.

Married Minor

W. Va. Code § 49-4-115 provide that a minor over age 16 years who marries is emancipated as a matter of law and that an emancipated minor has all of the privileges, rights, and duties of an adult.

Minor, Age or Maturity

In *Belcher v. Charleston Area Medical Ctr.*, 188 W. Va. 105, 116 (1992), the Supreme Court of Appeals of West Virginia found that "the mature minor exception is part of the common law rule of parental consent of this state... Obviously, application of the mature minor rule would vary from case to case. ... Whether a child is a mature minor is a question of fact. Whether the child has the capacity to consent depends upon the age, ability, experience, education, training, and degree of maturity or judgment obtained by the child, as well as upon the conduct and demeanor of the child at the time of the procedure or treatment. The factual determination would also involve whether the minor has the capacity to appreciate the

nature, risks, and consequences of the medical procedure to be performed, or the treatment to be administered or withheld."

Minor Consent—Services**Abortion**

Abortion is banned in West Virginia, with limited exceptions set forth in *W. Va. Code § 16-2R-3*. For up to date information on the status of abortion restrictions in West Virginia, 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 *W. Va. Code §§ 16-2F-1 – 16-2F-9* provide that an abortion may not be performed on an unemancipated minor until notice has been given to one parent, or a guardian or conservator of the minor. The law includes a judicial bypass and an emergency exception. 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 consent for contraceptives or family planning services. In *Doe v. Pickett*, 480 F. Supp. 1218 (S.D.W.V.1979), the federal district court held that grantees under Title X of the Public Health Service Act (Family Planning Program) and Titles IV, XIX and XX of the Social Security Act cannot impose the requirement of parental notice or consent as a condition to the provision of family planning services to minors in West Virginia.

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

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

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

W. Va. Code § 61-11A-9 provides that a sexual assault has “the right to receive a forensic medical examination consistent with the provisions of W. Va. Code § 61-8B-1(12) conducted by a qualified medical provider in accordance with best practices, taking into consideration the age of the victim and circumstances of the offense.

Sexually Transmitted Infection/Disease/HIV Care

W. Va. Code § 16-4-10 provides that notwithstanding any other provision of law, any licensed physician may examine, diagnose, or treat any minor with the minor’s consent for any “venereal disease” without the knowledge or consent of the minor’s parent or guardian.

W. Va. Code of State Rules § 64-64-10 provides that minors shall be treated for AIDS-related medical testing as established under W. Va. Code § 16-4-10.

W. Va. Code § 16-3C-2 provides that a patient consents to HIV-related testing when (1) the patient is informed either orally or in writing that HIV-related testing will be performed as part of his or her routine care; HIV-related testing is voluntary; and the patient may decline HIV-related testing (opt-out); or (2) the patient is informed that the patient’s general consent for medical care includes consent for HIV-related testing.

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

W. Va. Code § 60-6-23 provides that a physician may “examine, counsel, diagnose, and treat” any minor at the minor’s request for any addiction to or dependency upon alcohol, without the knowledge or consent of the minor’s parent or guardian.

W. Va. Code § 60A-5-504 provides that a physician or competent medically trained person under the physician’s direction may examine, diagnose, and treat any minor at the minor’s request for “any addiction to or dependency upon the use of a controlled substance without the knowledge or consent of the minor’s parent or guardian.”

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/Mental Health Records

W. Va. Code § 16-29-1 provides that any licensed, certified or registered health care provider shall, upon the written request of a patient, the patient’s authorized agent or authorized representative, (as defined by HIPAA), furnish a copy of all or a portion of the patient’s record to the patient, his authorized agent or authorized representative; except: “In the case of a patient receiving treatment for psychiatric or psychological problems, a summary of the record shall be made available to the patient, his authorized agent or authorized representative following termination of the treatment program.”

W. Va. Code § 16-29-1 also provides that nothing in this law “shall be construed to require a health care provider responsible for diagnosis, treatment or administering health care services in the case of minors for birth control, prenatal care, drug rehabilitation or related services or venereal disease according to any provision of this code, to release patient records of such diagnosis, treatment or provision of health care as aforesaid to a parent or guardian, without prior written consent therefor from the patient, nor shall anything in this article [Health Care Records] be construed to apply to persons regulated under the provisions of chapter eighteen [Education] of this code or the rules and regulations established thereunder.”

HIV

W. Va. Code § 16-3C-3 provides that information about the identity of a person tested for HIV or test results may not

be disclosed or be compelled to be disclosed except to the subject of the test or as otherwise specified in the statute.

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

Sexually Transmitted Disease

W. Va. Code § 16-4-10 provides that notwithstanding any other provision of law, any licensed physician may examine, diagnose, or treat any minor with his or her consent for any

“venereal disease” without the knowledge or consent of the minor’s parent or guardian.

Substance Use

W. Va. Code § 60-6-23 provides that any licensed physician may examine, counsel, diagnose and treat any minor at his or her request for any addiction to or dependency upon the use of alcoholic liquor or nonintoxicating beer, without the knowledge or consent of the minor’s parent or guardian.

W. Va. Code § 60A-5-504 provides that a physician or competent medically trained person under his or her direction may examine, diagnose, and treat any minor at his or her request for any addiction to or dependency upon the use of a controlled substance without the knowledge or consent of the minor’s parent or guardian.

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

In *Belcher v. Charleston Area Medical Ctr.*, 188 W. Va. 105, 113 (1992), the Supreme Court of Appeals of West Virginia recognized that medical emergencies have provided an inroad or exception to the common law rule that parental consent is required prior to rendering treatment to a minor.

W. Va. Code § 16-4C-17 provides that “[n]o emergency medical service personnel may be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical services to any individual regardless of age where the patient is unable to give his or her consent for any reason, including minority, and where there is no other person reasonably available who is legally authorized to consent to the providing of such care or who is legally authorized to refuse to consent to the providing of such care.”

Gender Affirming Care, Restriction

W. Va. Code § 30-3-20 prohibits the provision of gender altering medications including puberty blockers and hormones for the purpose of gender transition and prohibits irreversible gender reassignment surgery for minors, with an

exception for “pubertal modulating and hormonal therapy for severe gender dysphoria” under limited circumstances.

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

W. Va. Code § 16-4-10 provides that notwithstanding any other provision of law, any licensed physician who examines, diagnoses, or treats any minor with his or her consent for any “venereal disease” without the knowledge or consent of the minor’s parent or guardian shall not incur any civil or criminal liability in connection therewith except for negligence or willful injury.

W. Va. Code § 60-6-23 provides that any licensed physician who examines, counsels, diagnoses and treats any minor at their request for any addiction to or dependency upon the use of alcoholic liquor or nonintoxicating beer without

the knowledge or consent of the minor's parent or guardian shall not incur any civil or criminal liability in connection therewith except for negligence or willful injury.

W. Va. Code § 60A-5-504 provides that a physician or competent medically trained person under his or her direction who examines, diagnoses, and treats any minor at their request for any addiction to or dependency upon the use of a controlled substance without the knowledge or consent of the minor's parent or guardian shall not incur any civil or criminal liability in connection therewith except for negligence or willful injury.

Resources

West Virginia Code <https://code.wvlegislature.gov/>

West Virginia Code of State Rules <https://apps.sos.wv.gov/adlaw/csr/>

WISCONSIN

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Quick Guide

See glossary for explanation of categories and definitions of terms.

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- S Emancipation
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- S Abortion³
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- S F Family Planning/Contraceptives
- S Outpatient Mental Health Care
- S F Pregnancy-Related Care
- Reportable, Communicable, Infectious Disease Care
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- Emancipated Minor
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- Minor Parent
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- Pregnant Minor

Other

- S "Conversion Therapy," Partial Ban⁴
- S Emergency Care
- S Financial Responsibility
- Gender Affirming Care
- S Good Faith Reliance/Immunity from Liability

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

Wis. Stat. Ann. § 990.01(3) provides that the age of majority is 18 years.

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. For example, *Wis. Stat. Ann. § 324.02* (custody and visitation for deployed parents) and *Wis. Stat. Ann. § 48.375* (abortion) define an “emancipated minor” as a minor who is or has been married; a minor who has previously given birth; or a minor who has been freed from the care, custody and control of her parents, with little likelihood of returning to the care, custody and control prior to marriage or prior to

reaching the age of majority. And in *Niesen v. Niesen*, 38 Wis.2d 599, 603 (1968), the Supreme Court of Wisconsin recognized that marriage and entering into military service have been held to be acts of self-emancipation; the court also opined that there is “no hard-and-fast rule to determine emancipation—much depends upon the circumstances and the intent of him who has the power to effect an emancipation.”

Minor Marriage

Wis. Stat. Ann. § 765.02 provides that a minor age 16 or 17 years may marry with the written consent of the minor’s “parents, guardian, custodian, or parent having the actual care, custody and control of the person.”

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

No statute or case law was found that expressly authorizes minors to consent to health care based on their status. See “Other” section for related laws.

Minor Consent—Services**Abortion**

Abortion is legal in Wisconsin with many restrictions. For up to date information on the status of abortion restrictions and protections in Wisconsin, 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 *Wis. Stat. Ann. § 48.375* provides that an abortion may not be performed on an unmarried, unemancipated minor under age 18 years without the informed written consent of the minor and one parent or

grandparent, aunt, uncle, or sibling age 25 years or older; of one of the minor’s foster parents, if the minor has been placed in a foster home and the minor’s parent has signed a waiver granting the department, a county department, or the foster parent the authority to consent to medical services or treatment on behalf of the minor. The law includes a judicial bypass, and exceptions for medical emergency, documented suicide risk, and reported sexual assault and incest. 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 Wisconsin statute expressly authorizes minors generally to consent for contraception or family planning services.

As part of the state's Medicaid program, Badger Care+, [the Family Planning Services Only Program](#) provides people of reproductive age with family planning services and supplies to prevent unplanned pregnancies; services are provided to eligible minors under age 18 years without contacting their parents.

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

Wis. Stat. Ann. § 51.138 provides that a treatment director of an “outpatient mental health treatment” provider may provide “outpatient mental health treatment” to a minor for 30 days without first obtaining informed consent if all of the following criteria are satisfied:

- An emergency situation exists or time and distance requirements preclude obtaining written consent before beginning outpatient mental health treatment, and potential harm will come to the minor or others if treatment is not initiated before written consent is obtained, and
- A reasonable effort has been made to obtain consent from a parent or guardian of the minor before initiating treatment.

During the 30-day treatment period, the treatment director shall either obtain informed, written consent of a parent or guardian of the minor or, if consent is not obtained, file a petition to initiate a review of outpatient mental health treatment of a minor under § 51.14. The section does not allow prescribing of medications or admission of the minor for inpatient treatment without parent consent.

Wis. Stat. Ann. § 51.14 defines “outpatient mental health treatment” for this purpose.

Pregnancy-Related Care

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

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

Sexually Transmitted Infection/Disease/HIV Care

Wis. Stat. Ann. § 252.11 and Wis. Admin. Code DHS § 145.21 provide that a physician may treat a minor infected with a sexually transmitted disease or examine and diagnose a minor for the presence of a sexually transmitted disease without the consent of the parent or guardian. Wis. Stat.

Ann. § 252.11 provides that “sexually transmitted disease” includes syphilis, gonorrhea, chlamydia and other diseases the department includes by rule.

Wis. Stat. Ann. § 252.15(2m) provides that a health care provider may not subject a person to an HIV test without notifying the person or the person's authorized representative that the person will be subjected to an HIV test unless the person or the person's authorized representative declines the test. If the subject of an HIV test is a minor who is age 14 years or older, a health care provider shall provide the notifications and offer the information to the minor or the minor's authorized representative, and only the minor or the minor's authorized representative may consent to or decline an HIV test. However, a health care provider may subject a person under age 14 to an HIV test without obtaining the consent of the test subject if the provider obtains the consent for the test from the minor's parent or guardian.

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

Wis. Stat. Ann. § 51.45(2m) and (10am) provides that except as otherwise provided in § 51.47, a minor may apply for voluntary treatment directly to an approved facility for alcohol abuse and drug dependence, but only for outpatient, follow-up, and prevention and intervention services.

Wis. Stat. Ann. § 51.47 provides that any physician or health care facility may provide preventive, diagnostic, assessment, evaluation, or treatment services for the abuse of alcohol or other drugs to minors age 12 or older without obtaining the consent or notifying the parents or guardian. The physician or facility must obtain parent or guardian consent before performing any surgical procedure on the minor, unless the procedure is essential to preserve the life or health of the minor and parent or guardian consent is not readily obtainable. See also OAG 5-81, 1981 Wisc. AG LEXIS 57; 70 Wis. Op. Att'y Gen. 19.

Wis. Stat. Ann. § 51.47 also provides that any physician or health care facility may render those services to a minor under 12 years of age without obtaining the consent of or notifying the minor's parent or guardian, but only if a parent with legal custody or guardian of the minor under 12 years of age cannot be found or there is no parent with legal custody of the minor under 12 years of age.

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

Wis. Stat. Ann. § 146.82 provides that all patient health care records shall remain confidential and may be released only to the persons designated in § 146.82(2) or to other persons with the informed consent of the patient or of a person authorized by the patient.

Mental Health, Substance Use

Wis. Stat. Ann. § 51.30(5) provides that a minor who is age 14 years or more may consent to the release of confidential alcohol, drug abuse, and mental health information in court or treatment records without the consent of the minor’s parent, guardian, or person in the place of a parent. *Wis. Stat. Ann. § 51.30(5)* provides that a minor who is age 14 years or older has access to the minor’s own court and treatment records.

Sexually Transmitted Disease

Wis. Stat. Ann. § 252.11 provides that “reports, examinations and inspections and all records concerning sexually transmitted diseases are confidential and not open to public inspection, and may not be divulged except as may be necessary for the preservation of the public health, in the course of commitment proceedings under sub. (5), or as provided under [Wis. Stat. Ann. §§] 938.296(4) or 968.38(4).”

Wis. Stat. Ann. § 252.15(3m) provides that when the subject of an HIV test is a minor who is age 14 years or older, only

the minor or the minor’s authorized representative may exercise the test subject’s authority to disclose HIV test results as specified in subsections (a) or (b).

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

Substance Use

Wis. Stat. Ann. § 51.47 provides that when a physician or health care facility provides preventive, diagnostic,

assessment, evaluation, or treatment services for the abuse of alcohol or other drugs to minors age 12 or older without obtaining the consent of the parents or guardian, the health care providers shall notify the parents or guardian of any services rendered as soon as possible. However, in *Wis. Op. Att’y Gen. No. 42-88 (August 26, 1988)*, the Wisconsin Attorney General opined that, the notice provision in § 51.47 only applies to services for which parental consent is necessary or in situations where a minor aged 12 or older has given informed consent to parent notification, and that, except for those services for which parental consent is necessary, a physician or health care facility may only release outpatient or detoxification services information to a parent or guardian with the consent of a minor patient, provided the minor is age 12 or older.

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

Wis. Stat. Ann. § 51.138 provides that for outpatient mental health treatment services provided to a minor without parental consent under this section, the treatment director of an outpatient mental health treatment provider shall obtain the minor’s consent before billing a 3rd party for the services. If the minor does not consent to billing a 3rd party, the minor shall be responsible for paying for the services, which the department shall bill to the minor under § 46.03.

Wis. Stat. Ann. § 51.47 provides that unless consent of the minor’s parent or guardian is required under § 51.47 for services related to substance use care, “the physician or health care facility shall obtain the minor’s consent prior to billing a 3rd party for services under this section. If the minor does not consent, the minor shall be solely responsible for paying for the services, which the department shall bill to the minor under [Wis. Stat. Ann.] § 46.03(18(b)).”

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 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

Wis. Stat. Ann. § 448.30 provides an exception in emergencies to the physician’s duty to inform the patient about the availability of reasonable alternate medical modes of treatment and about the benefits and risks of these treatments.

Financial Responsibility

Wis. Stat. Ann. § 51.138 provides that when a minor obtains

outpatient mental health treatment on their own consent, “the treatment director of an outpatient mental health treatment provider shall obtain the minor’s consent before billing a 3rd party for the services. If the minor does not consent to billing a 3rd party, the minor shall be responsible for paying for the services, which the department shall bill to the minor under [Wis. Stat. Ann.] § 46.03(18(b)).”

Wis. Stat. Ann. § 51.138(18)(b) provides that “[e]xcept as provided in [Wis. Stat. Ann.] § 46.10(14)(b) and (c), any person receiving services provided or purchased [by certain government departments] and, in the case of a minor, the parents of the person...shall be liable for the services in the amount of the fee established [by the statute]. If a minor receives services without consent of a parent or guardian under [Wis. Stat. Ann.] §§ 51.138 or 51.47, the department or, if applicable, the county department shall base the fee solely on the minor’s ability to pay.”

Wis. Stat. Ann. § 51.47 provides that unless consent of the minor's parent or guardian is required under § 51.47 for services related to substance use care, "the physician or health care facility shall obtain the minor's consent prior to billing a 3rd party for services under this section. If the minor does not consent, the minor shall be solely responsible for paying for the services, which the department shall bill to the minor under [Wis. Stat. Ann.] § 46.03(18(b))."

Gender Affirming Care

There are no restrictions on access to gender affirming care in Wisconsin law at this time.

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

Wis. Stat. Ann. § 51.47 provides that no physician or health care facility rendering minor consent substance use services under § 51.47 is liable solely because of the lack of consent or notification of the minor's parent or guardian.

Wis. Stat. Ann. § 252.11 provides that a physician shall incur no civil liability solely by reason of the lack of consent of the minor's parents or guardian for provision of care related to sexually transmitted disease as authorized by § 252.11.

Resources

Wisconsin Statutes <https://docs.legis.wisconsin.gov/statutes/statutes>

Wisconsin Administrative Code https://docs.legis.wisconsin.gov/code/admin_code

WYOMING

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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
- S Emergency Care
- S F Family Planning/Contraceptives
- Outpatient Mental Health Care
- F Pregnancy-Related Care
- S 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

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

Other

- S Domestic Violence, Minor Consent
- S Gender Affirming Care, Restriction
- S Homeless Services, Minor Consent
- S Urgent Services, Minor 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

Wyo. Stat. Ann. § 14-1-101(a) provides that the age of majority is 18 years.

Emancipation

Wyo. Stat. Ann. § 14-1-201 provides that a minor is emancipated who: is or was married, is in the military service of the United States, or has received a declaration of emancipation from a court. *Wyo. Stat. Ann. §§ 14-1-201 – 206* specify the criteria and procedures for a minor age 17 years to be emancipated by a court and the effects of a decree of emancipation.

Minor Marriage

Wyo. Stat. Ann. § 20-1-102 provides that a minor age 16 or 17 years may marry with the consent of a parent or guardian and a court order. A minor age 16 or 17 years may marry without parent or guardian consent or a court order if emancipated pursuant to *Wyo. Stat. Ann. § 14-1-203* or the minor meets the requirements to enter into a contract specified in *Wyo. Stat. Ann. § 14-1-102*: that the minor is at least age 16 years; is willingly living separate and apart from the minor's parents who consent to or acquiesce in the separate living arrangement; is homeless; and is managing the minor's own financial affairs.

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**

Wyo. Stat. Ann. § 14-1-101 provides that an emancipated minor may consent for health care treatment to the same extent as if they were an adult.

Married Minor

Wyo. Stat. Ann. § 14-1-101 provides that a minor may consent for health care treatment to the same extent as if they were an adult when the minor is or was legally married. Minor in Armed Forces

Wyo. Stat. Ann. § 14-1-101 provides that a minor in active military service of the United States may consent for health care treatment as if they were an adult.

Minor Living Apart from Parent/Guardian

Wyo. Stat. Ann. § 14-1-101 provides that a minor may consent for health care treatment to the same extent as if they were an adult when the minor is living apart from

their parents or guardian and is managing their own affairs regardless of the source of income.

Minor Consent—Services**Abortion**

Abortion is significantly restricted in Wyoming. Abortion was banned in Wyoming, but the pre-existing trigger ban as well as a total ban enacted in 2023 are currently enjoined by the court in *Johnson v. State*, No. 18732 (Wy. Dist. Ct. of Teton Cnty. Aug. 10, 2022); *Johnson v. State*, No. 18853 (Wy. Dist. Ct. of Teton Cnty. Mar. 22, 2023) (order granting motion for temporary restraining order). For up to date information on the status of abortion restrictions and protections in Wyoming, see [Center for Reproductive Rights, After Roe Fell: Abortion Laws by State](#).

To the extent abortion is legally permitted, minors may obtain an abortion. A law that previously required parental involvement was repealed in 2023. When minors may obtain an abortion within current restrictions, neither parental notice or consent is required. 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.

Emergency Care

Wyo. Stat. Ann. § 14-1-101 provides that a minor may consent for health care treatment to the same extent as if they were an adult if need for treatment is urgent enough to require immediate attention and the parents or guardian cannot be located with reasonable diligence.

Family Planning/ Contraceptives

Wyo. Stat. Ann. § 42-5-101 provides that the “department of health may provide and pay for family planning and birth control services, including referral to a physician for consultation, examination, tests, medical treatment, and prescription and the distribution of rhythm charts, drugs, medical preparation, and contraceptive devices, to any person who may benefit from this information and these 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.

Pregnancy-Related Care

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

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

Code of Wyo. Rules 048-0046-11 § 11 provides that “[i]ndividuals under eighteen years of age may give legal consent for examination and treatment for any listed reportable disease or condition, without the consent of parents or guardians.” For this purpose, Code of Wyo. Rules 048-0046-11 § 3 provides that a “reportable disease” is a “disease and/or condition designated as nationally notifiable by the Centers for Disease Control and Prevention, as well as additional diseases and conditions considered notifiable by the Wyoming Medical and Public Health Community.”

Sexual Assault Care

Wyo. Stat. Ann. § 6-2-309(e) provides that if a minor reports an alleged sexual assault, and the minor’s parents cannot be located promptly with diligent effort, the minor may

consent for a medical examination. If a parent is alleged to be the perpetrator, he or she shall not be notified.

Wyo. Stat. Ann. § 14-1-102 provides that an unemancipated minor may enter into a legally binding contract for admission to a domestic violence or homeless shelter and receipt of services as a homeless youth or victim of domestic violence or sexual abuse, provided that the minor is: at age 16 years; willingly living separate and apart from his parents who consent to or acquiesce in the separate living arrangement; homeless; and managing their own financial affairs; and submits a notarized affidavit that meets the requirements of § 14-1-102.

Sexually Transmitted Infection/Disease/HIV Care

Wyo. Stat. Ann. § 35-4-131 provides that minors may consent for examination and treatment for any sexually transmitted disease. A health care provider shall, for any individual regardless of age: administer, refer for, or recommend appropriate and adequate treatment, if the person is reasonably suspected of being infected with any sexually transmitted disease; and recommend or offer treatment, if the person has been exposed to any sexually transmitted disease. Code of Wyo. Rules 048-0051-4 provides that “persons under age 18 years may give legal consent for examination and treatment for any sexually transmitted disease.”

Wyo. Stat. Ann. § 35-4-130 provides that AIDS is a sexually transmitted disease. Code of Wyo. Rules 048-0051-1 § 2 provides that “HIV Infection/AIDS” is a sexually transmitted disease.

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

Wyo. Stat. Ann. § 14-1-101 provides that a minor age 12 years or older is a smoker or user of tobacco products may consent for health care that is a tobacco cessation program approved by the department of health pursuant to § 9-4-1204.

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 Maintenance Organizations

Wyo. Stat. Ann. § 26-34-130 provides that “data or information pertaining to the diagnosis, treatment or health of any enrollee or applicant obtained from that person or from any provider by any health maintenance organization shall be held in confidence and shall not be disclosed to any person” except with the express consent of the enrollee or applicant or as otherwise specified in the statute.

Sexually Transmitted Disease

Wyo. Stat. Ann. § 35-4-132 provides that information and records related to a sexually transmitted disease which has been reported, acquired and maintained under §§ 35-4-130 – 35-4-134 are confidential and, except as otherwise required by law, shall not be disclosed except under one of the enumerated circumstances, including when the disclosure is made with the written consent of the individual identified in the information or records.

Code of Wyo. Rules 048-0051-1 § 3 provides that “[a]ll records pertaining to sexually transmitted diseases are confidential and except as otherwise required by law shall not be disclosed except for limited exceptions described in the regulation.”

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

Sexual Assault

Wyo. Stat. Ann. § 6-2-309 provides that if a minor is examined for an alleged sexual assault, and a parent is alleged to be the perpetrator, the parent shall not be notified.

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.

Domestic Violence, Minor Consent

Wyo. Stat. Ann. § 14-1-102 provides that an unemancipated minor may enter into a legally binding contract for admission to a domestic violence or homeless shelter and receipt of services as a homeless youth or victim of domestic violence or sexual abuse, provided that the minor is: at age 16 years; willingly living separate and apart from his parents who consent to or acquiesce in the separate living arrangement; homeless; and managing their own financial affairs; and submits a notarized affidavit that meets the requirements of § 14-1-102.

Gender Affirming Care

Wyo. Stat. Ann. § 35-4-1001 provides that no physician or health care provider may perform a mastectomy or surgery that sterilizes a minor or prescribe, administer or dispense puberty suppressing drugs or “supraphysiologic doses” of testosterone or estrogen for purposes of transitioning a child’s biological sex as determined by the sex organs, chromosomes and endogenous profiles of the child or affirming the child’s perception of the child’s sex if that perception is inconsistent with the child’s biological sex, except in specified circumstances. The section defines “child,” “health care provider,” and “physician.” The statute also provides that it shall not be construed to prohibit a minor from receiving mental health treatment, provided that such treatment shall not include any medication treatments prohibited by the statute.

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**.

Homeless Services, Minor Consent

Wyo. Stat. Ann. § 14-1-102 provides that an unemancipated minor may enter into a legally binding contract for admission to a domestic violence or homeless shelter and receipt of services as a homeless youth or victim of domestic violence or sexual abuse, provided that the minor is: at age 16 years; willingly living separate and apart from his parents who consent to or acquiesce in the separate living arrangement; homeless; and managing their own financial affairs; and submits a notarized affidavit that meets the requirements of § 14-1-102.

Urgent Care, Minor Consent

Wyo. Stat. Ann. § 14-1-101 provides that a minor may consent for health care treatment to the same extent as if they were an adult if need for treatment is urgent enough to require immediate attention and the parents or guardian cannot be located with reasonable diligence.

Resources

Wyoming Statutes <https://www.wyoleg.gov/StateStatutes/StatutesConstitution>

Wyoming Code of Regulations <https://rules.wyo.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