

**PROTECTING MINORS' HEALTH INFORMATION
UNDER THE
FEDERAL MEDICAL PRIVACY REGULATIONS**



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ACLU Reproductive Freedom Project

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A Summary

Is the minor emancipated under state law?

If so, the minor exercises the rights of the individual over his or her health information.

If not . . .

Did the parent (or guardian or other person who functions as a parent) consent to the health care service on behalf of and in place of the minor?

If so, the parent is the minor's personal representative and exercises the rights of the individual over the health information about that service.

If not . . .

Did the minor obtain health care based on his or her own, or a nonparent's, consent?

- Did the minor consent to the health care service, and no other consent was required by law?
- Did the minor lawfully obtain the health care service without a parent's consent, and the minor, a court, or another person authorized by law consented to the service?
- Did the parent assent to an agreement of confidentiality between the minor and a health care provider?

If any one of these is so, the minor exercises the rights of the individual over the health information pertaining to the service.

In cases where the minor exercises the rights of the individual, are parents nevertheless allowed access to the minor's health information?

- Does state or other law explicitly require or permit a parent to be notified of or allowed access to the information?

If so, comply with the requirement or exercise discretion in accordance with that state or other law.

- Does state or other law explicitly prohibit a parent from being notified of or obtaining access to the information?

If so, comply with the prohibition in that state or other law.

- Is state and other law silent about a parent's access to the information?

If so, a health care professional may exercise discretion to grant or deny a parent access upon request, but affirmative disclosures are forbidden.

What about minors whose safety depends on the confidentiality of their health information?

Notwithstanding the rules above, and regardless of any contrary state law, health care providers and others may decline to treat a parent as a minor's personal representative based on a reasonable belief that such a decision would be in the minor's best interest and that the parent has subjected or may subject the minor to abuse, neglect, or endangerment.

Even when the parent is the minor's personal representative, health care providers and others may deny information to the parent to prevent substantial harm to the minor or another person.

The federal regulations designed to protect the privacy of health information are now final.¹ Most entities covered by the regulations, including all covered health care providers, must come into compliance by *April 14, 2003*.

This guide is intended to help health care providers, plans, and others to understand their obligations under the regulations *in dealing with health information about minors*. This guide is not intended as a guide to compliance with the many other provisions of the regulations. Nor does this guide constitute legal advice. Health care providers, plans, and others should contact their professional associations for assistance in finding reliable guides to general compliance. Covered entities may also want to contact their attorneys regarding compliance plans. Violations of the regulations can result in fines, imprisonment, or both.

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DEFINITIONS

This guide will use several terms drawn from the regulations. Terms critical to understanding the treatment of minors' health information are defined below.

Individual means the person who is the subject of protected health information.² The regulations give the individual certain rights over his or her health information (see below).

Personal representative means a person who is authorized to act on behalf of an individual in making health care decisions. With regard to information related to health care decisions within the scope of their authority, personal representatives stand in place of the individual and exercise the rights conferred by the regulations on behalf of the individual.³

Unemancipated minor means a person who has not yet reached the age of majority under state law and who remains under the care of his or her parent(s) or other guardian under state law.⁴ The age of majority is usually eighteen, though a few states establish a different rule.⁵ State laws vary as to the conditions (including, for example, financial self-support, marriage, induction into military service) that will "emancipate" an otherwise underage minor, allowing him or her to be treated as an adult for all legal purposes, including the right to consent to most types of health care.

Parent, guardian, or person acting in loco parentis means a parent or other person with legal guardianship of a child or a person who functions as a child's parent. A nonparent may act *in loco parentis* by, for example, sharing a home with the child, raising the child, and financially supporting the child.⁶ This guide uses the word "parent" as shorthand for all of these terms.

Covered entity means an entity that must comply with the regulations. These entities include:

- > *health care providers* who transmit individually identifiable health information via computer-based technology in order to be paid for their services, to make or receive authorized referrals, or to perform certain other financial or administrative functions (health care providers who accept no insurance payments for any service are unlikely to be covered entities);
- > *health plans* (including insurers) that provide or pay for health care; and
- > *health care clearinghouses* that translate health information either to or from the standard format required for electronic transactions.⁷

- > In addition, a covered entity's *business associates* – which may perform a variety of functions such as claims processing or administration, billing, quality assurance, or data analysis – must agree by contract to abide by most provisions of the regulations.⁸

Health care means care, services, or supplies related to the health of an individual. The term is defined broadly to include, among other things, preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, services, assessments, or procedures with respect to the physical or mental condition, or functional status, of an individual, as well as the sale and dispensing of prescription drugs and devices.⁹

Protected health information means individually identifiable information that is created or received by a covered entity and relates to the physical or mental health of an individual, the provision of health care to an individual, or the payment for health care. Once an entity is determined to be a *covered entity*, all of the *protected health information* it holds, including written and oral information, is subject to the regulations, whether or not it was ever transmitted by computer.¹⁰

THE RIGHTS OF THE INDIVIDUAL UNDER THE REGULATIONS

The regulations give individuals new rights over their protected health information. These rights are qualified, and each has many exceptions, but in general they include:

- the right to access, inspect, and copy protected health information;¹¹
- the right in some circumstances to authorize or refuse to authorize a covered entity to use protected health information itself or to disclose it to others;¹²
- in some circumstances where formal authorizations are not required, the right to agree or object to a covered entity's use or disclosure of protected health information;¹³
- the right to receive confidential communications of protected health information in some circumstances;¹⁴
- the right to request restrictions on certain uses and disclosures of protected health information;¹⁵
- the right to be notified of a covered entity's privacy practices;¹⁶
- the right to amend protected health information;¹⁷ and
- the right to receive an accounting of a covered entity's disclosures of protected health information.¹⁸

In dealing with health information about minors, an initial question arises: Who exercises the rights of the individual with regard to such information? In general, the regulations make parents the personal representatives of their unemancipated minor children and so give parents the rights of the individual with respect to minors' protected health information. Unemancipated minors, however, exercise most rights of the individual with regard to a limited subset of protected information related to certain kinds of sensitive health care. But even when the minor otherwise exercises the rights of the individual, the regulations give health care professionals considerable discretion to grant or deny parents access to the minor's protected health information.

The General Rule: Parents as Personal Representatives

In states throughout the nation, parents generally have the legal right to make, and do make, health care decisions on behalf of their children. The regulations tie the parent's decision-making authority over children's health care to the parent's control over the relevant health information. Thus, when a parent (or guardian or other person acting *in loco parentis*) has the legal authority to make a health care decision for a child, the parent has all the rights of the individual under the regulations with respect to the protected information pertaining to that health care.¹⁹

Example: A parent consents to diagnostic tests and treatment for a child who has leukemia. The parent exercises the rights of the individual over the protected health information about the child's leukemia.

Example: A court has appointed an official from a local health or social services agency to act as the medical guardian of a child who has a potentially life-threatening blood disease but whose parents have refused treatment on religious grounds. The medical guardian consents to treatments for the child's illness. The guardian exercises the rights of the individual over the protected health information about these treatments.

Example: A grandmother takes her grandson to the pediatrician to have his sore throat examined. Although the boy's parents are alive, he lives with his grandmother and she supports him. She consents to a strep test and to a course of antibiotics when the test comes back positive. The grandmother exercises the rights of the individual over the protected health information about the boy's strep throat.

The Exceptions: Unemancipated Minors as Individuals

Because of a complex web of constitutional protections, federal and state laws, court decisions, and professional standards governing the treatment of adolescent patients, unemancipated minors can lawfully obtain certain kinds of health care based on their own consent or on the approval of designated adults other than their parents. In every state, minors can consent on their own to contraceptive services, prenatal care, and testing and treatment for sexually transmitted diseases. Minors' independent access to other sensitive services – such as abortion, alcohol and drug abuse treatment, and mental health counseling – varies from state to state. As to abortion, every state that requires parental involvement must offer the minor a confidential and speedy alternative, usually in the form of a court hearing where she can seek a waiver of the parental involvement requirement.

A chart produced by the Alan Guttmacher Institute in July, 2000, is attached to this guide to provide a brief overview of relevant state laws.²⁰ State laws standing alone are only one piece of the puzzle, however. The chart shows, for example, that many states have no laws explicitly permitting or forbidding minors to self-consent to abortion, contraception, or prenatal care. But minors have constitutional rights to obtain such services and may do so on their own, not only when state law specifically grants them this right, but also when state law is silent. The regulations leave undisturbed the constitutional, legal, and professional standards that together govern minors' independent access to certain health services.

Under the regulations, where and when an unemancipated minor may lawfully obtain a type of health care without a parent's consent, the minor exercises most of the rights of the individual with respect to protected information about that health care. The regulations outline three general circumstances in which an unemancipated minor is treated as the individual. All three are outlined below, and each is illustrated by example(s).

Exception 1:

The minor consents to the health care service and no other consent to this service is required by law. In such a case, the minor exercises the rights of the individual regardless of whether a parent or other adult has also consented to the service, unless the minor specifically requests that a parent or other adult be treated as his or her personal representative.²¹

Example: A minor consents to drug abuse treatment. In the state where he is treated, the law specifically authorizes minors to consent on their own to such treatment (see attached chart). The minor exercises the rights of the individual with regard to the protected health information about the drug abuse treatment, even if his parent also consented to or was aware of the treatment.

Example: A minor consents to an abortion, followed by contraceptive services. In the state where she is treated, there is no law specifically authorizing a minor to consent to either of these serv-

ices (see attached chart). Yet there is also no law requiring the consent of a parent or other adult to these services. State statutes or court decisions that require parental consent for minors' medical treatment in general cannot apply in these circumstances because their application would conflict with the minor's constitutional rights. The minor therefore exercises the rights of the individual over the protected health information about the abortion and contraceptive services.

Example: A minor consents to an abortion in a state that requires either parental notification or a court order before the abortion is performed (see attached chart). The minor decides to allow her parent to be notified and the clinic sends out the required notice. The minor nevertheless exercises the rights of the individual over the protected information about the abortion because the law requires no *consent* other than the minor's.

Example: A minor consents to health care in a state that has established – through statute, regulation, or court decisions – a “mature minor doctrine,” permitting adolescents over a certain age or maturity level to consent on their own to health care (see attached chart).²² The minor exercises the rights of the individual over his or her protected information.

Exception 2:

If a minor may lawfully obtain a health care service without a parent's consent, and the minor, a court, or another person authorized by law consents to the service, the minor exercises the rights of the individual over the protected information about that service.²³

Example: A minor seeks an abortion in a state that requires parental consent or a court order before the abortion is performed (see attached chart). The minor obtains a court order that either allows her to consent on her own or authorizes the abortion without parental consent because this is in her best interest. No matter which ground the court relies on in granting the order, the minor exercises the rights of the individual over the protected information about the abortion. (Note, however, that if the minor obtains parental consent instead of going to court, the parent exercises the rights of the individual over the abortion information.)

Example: A minor seeks an abortion in a state that requires a court order or the prior consent of a parent or another adult family member. If the minor obtains the consent of an adult family member – such as a sister or aunt – who is *not* her parent, guardian, or other person acting *in loco parentis*, the minor exercises the rights of the individual over the abortion information.

Exception 3:

If a parent assents to an agreement of confidentiality between a covered health care provider and a minor, the minor exercises the rights of the individual over protected information about the health care covered by the agreement.²⁴

Example: A parent takes his or her thirteen-year-old to the pediatrician for a check-up. Following protocols established by the American Academy of Pediatrics, the doctor explains to the parent and the minor that the doctor will keep the teenager's confidences in all but extreme and dangerous circumstances. The parent agrees to this arrangement. The minor then exercises the rights of the individual with regard to the protected information pertaining to the examination.

Granting or Denying Parents Access to Minors' Protected Health Information When Minors Otherwise Exercise the Rights of the Individual

Under the regulations outlined above, the person who consents to the health care, whether a parent or a minor, generally exercises the rights of the individual over the protected information about that health care. Thus, when parents make health care decisions for their minor children and act as their personal representatives, the regulations give parents the right to access their children's protected health information. Even when the minor lawfully obtains health care without parental consent and exercises the rights of the individual for all other purposes, however, the regulations do not necessarily give the minor the right to prevent a covered entity from giving a parent access to his or her protected health information. In most circumstances, the regulations give health care professionals who are or are employed by covered entities the discretion to grant or deny a parent access, so long as such discretion is exercised in a manner consistent with state and other law. The regulations set out three pertinent rules, each of which is outlined and illustrated by example below.

Rule 1:

If state or other law, including relevant court decisions, explicitly permits or requires a covered entity affirmatively to disclose a minor's protected health information to a parent, or to give a parent access to such information upon his or her request, the regulations permit a covered entity to comply with this state or other law.²⁵

Example: A minor consents to testing and treatment for a sexually transmitted disease (STD) under a state law that explicitly permits such consent. The law also, however, permits a health care provider to notify the parents of the test results and treatments (see attached chart). Although the minor exercises the rights of the individual over the STD information for all other purposes, a covered health care provider may (but need not) disclose such

information to a parent, or grant a parent access, without the minor's authorization.

Example: A minor consents to HIV testing in a state that permits such consent. The state's law also, however, requires that a parent be notified of positive test results (see attached chart). The regulations permit covered entities to comply with this law by informing the parents.

Rule 2:

To the extent that state or other law, including relevant court decisions, explicitly prohibits a covered entity from affirmatively disclosing a minor's protected health information to a parent, or from granting a parent access to such information upon his or her request, the regulations forbid this conduct as well.²⁶

Example: A minor consents to contraceptive services in the Medicaid program or in a program funded under Title X of the federal Public Health Service Act. The laws governing these programs guarantee the confidentiality of patient information, including information about minor patients. The regulations mandate compliance with these guarantees of confidentiality and prohibit covered entities from making disclosures or granting access to parents without the minor's authorization.

Rule 3:

In many of the circumstances in which a minor lawfully obtains health care without a parent's consent, no state or other law explicitly addresses the question whether or not parents may access information about such health care. When a minor otherwise exercises the rights of the individual under the regulations, but no state or other law governs parental access to the minor's protected health information, the regulations give health care professionals discretion to grant or deny the parent such access. This discretion may be exercised only by a licensed health care professional who is or is employed by a covered entity. This health care professional may not initiate disclosure of the minor's protected health information to the parent without the minor's authorization. If a parent requests access to the information, however, the professional may grant or deny the request.²⁷

Example: A minor consents to mental health counseling in a state that explicitly permits such consent but has no law governing disclosures of the associated health information to parents. In the absence of emergency circumstances or authorization from the minor, a covered entity may not contact the parents to disclose protected health information about the counseling. If, however, a parent contacts a covered entity and asks for information about the minor's counseling sessions, a licensed health care professional may make a judgment about whether or not to give the parent the information he or she seeks.

Protecting Minors' Safety: An Overriding Obligation

The regulations evince an overriding concern that covered entities handle minors' health information in a way that protects their safety. Several provisions of the regulations aimed at this goal are outlined below.

Abuse, neglect, or endangerment: Notwithstanding the rules described above, and regardless of any contrary state law, a covered entity may decline to treat a person as the personal representative of a minor (or other individual) based on a reasonable belief that:

- the person has subjected or may subject the minor to domestic violence, abuse, or neglect; *or* treating the person as a personal representative could endanger the minor; *and*
- the covered entity, in the exercise of professional judgment, decides that it is not in the best interest of the minor to treat the person as a personal representative.²⁸

In addition to permitting a covered entity to decline to treat a potentially dangerous or neglectful person as a minor's personal representative, the regulations explicitly allow covered entities to report child abuse or neglect to the relevant authorities.²⁹

Substantial harm: Even when a parent is not so potentially dangerous or neglectful as to be denied the status of a personal representative, disclosing protected health information to a parent can nevertheless cause harm. The regulations therefore allow a licensed health care professional who is or is employed by a covered entity to deny a personal representative access to a minor's protected health information based on a professional judgment that such access is reasonably likely to cause substantial harm to the minor or another person.³⁰

If a covered entity denies a personal representative access under this provision, the covered entity must provide timely, written notice of the denial, including a statement of the basis for the denial.³¹ The requirement of this notice potentially reintroduces the risk of harm that the denial of information was meant to avoid. Notifying a parent that his or her request for access to information has been denied because of the risk of substantial harm to the minor could itself lead to unacceptable repercussions against the child. In the interest of complying with the regulations' paramount goal of protecting minors from harm, covered entities should avoid explaining a denial of access in a way that exposes the minor to danger. It should be sufficient to state that access has been denied because a health care professional has determined that confidentiality is in the best interest of the minor patient.

The right to confidential communications: When minors exercise the rights of the individual over particular health information, they may request to receive communications about that information by alternative means or at alternative locations. For example, they may request no telephone calls at home to remind them of an appointment, or no mailings to their home address but instead to a different address. Such requests are often driven by the minor's related concerns for his or her confidentiality and safety.

A covered health care provider must accommodate reasonable requests of this sort without regard to whether the minor explains the basis of the request. A covered health plan, in contrast, may (but need not) require the minor to state that disclosure of the information could endanger him or her. Any covered entity may (but need not) require the minor to make the request in writing and to provide information on how payment will be handled.³²

The right to request additional privacy protections: When minors exercise the rights of the individual over particular health information, they may also request special, additional privacy protection for this information. For example, they may request that a covered entity not disclose the information without specific authorization in circumstances where the regulations do not otherwise require authorization, as when the covered entity seeks payment or makes a referral for treatment. Again, a minor may make such a request out of a concern for his or her safety.

A covered entity is not required to agree to such requests. If it agrees, however, it is generally bound by the agreement unless and until the agreement is terminated, and it must document the agreement.³³

Emergency disclosures: A covered entity may, consistent with applicable law and ethical standards, use or disclose a minor's (or any individual's) protected health information if the covered entity believes in good faith that:

- such use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of the individual or the public; and
- the information is going to a person who is reasonably able to prevent or lessen the threat.³⁴

Informing Minors of Their Rights and Helping Them To Exercise Their Rights

Covered entities can help to safeguard minors' confidentiality by actively assisting them in understanding and using the privacy protections provided in the regulations. The regulations require covered entities to provide all individuals, including minors when they exercise the rights of individuals, a detailed notice of the entity's privacy practices and the individual's rights.³⁵ Covered entities should review this notice particularly thoroughly with minors.

Covered entities may also want to provide standard forms to help minors exercise their rights, particularly the right to receive confidential communications and the right to request additional privacy protections under the provisions outlined above. Sample forms for patients to use to exercise these rights are provided at the end of this guide. In addition, health care providers have a critical role to play in alerting other covered entities that the minor has been treated confidentially. Indeed, a notice of confidentiality should accompany all disclosures of health information related to services a health professional has provided confidentially. For example, health care providers may want to forward such a notice whenever they submit a bill for confidential services to an insurer, send a minor's specimens to a laboratory, refer a minor patient they are treating confidentially to another professional, and in other similar circumstances. A sample form that may be used to convey such information is provided at the end of this guide.

NOTES

1. See 45 C.F.R. Parts 160 and 164, available at <http://www.hhs.gov/ocr/hipaa>.
2. 45 C.F.R. § 164.501.
3. 45 C.F.R. § 164.502(g); see also 65 Fed. Reg. 82,500 (Dec. 28, 2000).
4. The regulations do not define "unemancipated minor" but defer to state law definitions of the term.
5. See note at the bottom of the Alan Guttmacher Institute's chart of relevant state laws, attached to this guide.
6. Again, the regulations do not define these terms but rely on state law definitions.
7. 45 C.F.R. § 160.103.
8. 45 C.F.R. §§ 160.103, 164.504(e)(1).
9. 45 C.F.R. § 160.103.
10. 45 C.F.R. §§ 160.103, 164.501.
11. 45 C.F.R. § 164.524.

12. 45 C.F.R. §§ 164.502, 164.506, 164.508, 164.512, 164.514.
13. 45 C.F.R. §§ 164.510, 164.512.
14. 45 C.F.R. § 164.522(b).
15. 45 C.F.R. § 164.522(a).
16. 45 C.F.R. § 164.520.
17. 45 C.F.R. § 164.526.
18. 45 C.F.R. § 164.528.
19. 45 C.F.R. § 164.502(g)(3)(i).
20. *See also* A. English et al., *State Minor Consent Laws: A Summary*, 2nd ed. Chapel Hill, NC: Center for Adolescent Health & the Law, April 2003. This 200 page monograph summarizes each state's minor consent statutes, including the confidentiality and disclosure provisions of those statutes. Ordering information is available from info@cahl.org.
21. 45 C.F.R. § 164.502(g)(3)(i)(A).
22. But be aware that even a minor who is legally entitled to consent to most health care on her own may have to comply with a law that requires parental or judicial involvement in her abortion decision.
23. 45 C.F.R. § 164.502(g)(3)(i)(B).
24. 45 C.F.R. § 164.502(g)(3)(i)(C).
25. 45 C.F.R. § 164.502(g)(3)(ii)(A).
26. 45 C.F.R. § 164.502(g)(3)(ii)(B).
27. 45 C.F.R. § 164.502(g)(3)(ii)(C); *see also* 67 Fed. Reg. 53,200-53,2001 (Aug. 14, 2002).
28. 45 C.F.R. § 164.502(g)(5).
29. 45 C.F.R. § 164.512(b)(1)(ii); *see also* 45 C.F.R. § 164.512(c).
30. 45 C.F.R. § 164.524(a)(3)(iii).
31. 45 C.F.R. § 164.524(d)(2).
32. 45 C.F.R. § 164.522(b).
33. 45 C.F.R. § 164.522(a).
34. 45 C.F.R. § 164.512(j)(1)(i).
35. 45 C.F.R. § 164.520.

THIS IS A SAMPLE FORM ONLY AND DOES NOT CONSTITUTE LEGAL ADVICE.

**REQUEST TO RECEIVE COMMUNICATIONS AT
AN ALTERNATIVE LOCATION OR BY ALTERNATIVE MEANS**

I, _____, request that I not be contacted at home and that
[print your name]
information relating to my health care not be sent to my home.

Contacting me at home or sending information related to my health care to my home could endanger me.
Yes _____ No _____

NOTE: Health plans, including insurance companies, are not required to comply with your request unless you check yes. Your doctor or other health care provider, however, cannot refuse to comply with your request simply because you check no or leave this question blank.

Please list an alternative address, phone number, and/or email address at which you may be contacted:

I will pay for the health care services I receive today by _____

Signature: _____ Date: _____

THIS IS A SAMPLE FORM ONLY AND DOES NOT CONSTITUTE LEGAL ADVICE.

REQUEST FOR RESTRICTIONS ON THE USE AND DISCLOSURE OF MY HEALTH INFORMATION

You have the right to request restrictions on the way your health care provider and health plan (including your insurance company) use and disclose your health care information. Neither your health care provider nor your health plan is required to agree to your request. And we are not permitted to restrict disclosures that are required by law. If we do agree to a restriction, however, we cannot use or disclose your health information in a way that violates our agreement UNLESS you need emergency medical care. If you need emergency medical care, your health care provider or health plan may use the restricted information, or may disclose the information to a health care provider, to provide the medical care you need.

For the Patient To Complete

In order to request a restriction on the use or disclosure of your health information, please complete the following form.

I, _____, request that _____
[print your name] [list name of health care provider and/or health plan]

restrict the use and disclosure of my health information in the following manner:

Do not release information described below to the following people or entities:

The information that I do not want used or disclosed:

If you are requesting that information be withheld from people who would otherwise be involved in paying your bill, please explain how you will pay for the services you receive today:

Signature: _____ Date: _____

In case we are unable to review your request today, please give an address where we can send our response to your request:

For the Office to Complete

Note: Either complete this section and provide a copy to the patient before the patient leaves the office or mail this form to the address the minor has provided above.

We have agreed to the request for restrictions described in this form. Any exceptions or amendments to this agreement are noted below:

Signature: _____ Date: _____

On behalf of: _____ Title: _____

We cannot agree to your request for restrictions.

Signature: _____ Date: _____

On behalf of: _____ Title: _____

NOTICE OF CONFIDENTIALITY

Please be advised that on _____ the services listed below were provided
[date]

to _____, a minor, born on _____,
[patient's name] [patient's birth date]

_____, confidentially. These services were
[fill in insurance I.D. numbers as appropriate]

lawfully provided without a parent's consent.

_____ All services provided pursuant to this visit, including laboratory and pharmaceutical services.

_____ Specified services (please describe below)

It is my professional judgment that disclosure of health care information related to the above listed services to the patient's parent or guardian without the patient's authorization would be contrary to the best interest of the patient.

Signature: _____ Date: _____

On behalf of: _____ Title: _____

Minors' Rights to Consent to Health Care as of July 2000

State	Contraceptive services	Prenatal care	STD/HIV services	Treatment for alcohol and/or drug abuse	Outpatient mental health services	General medical health services	Abortion services	Medical care for child
Alabama	NL	MC	MC ^{2,3,4}	MC	MC	MC ⁵	PC	MC
Alaska	MC	MC	MC	NL	NL	MC ⁷	NL ⁸	MC
Arizona	MC	NL	MC	MC ²	NL	NL	NL ⁸	NL
Arkansas	MC	MC ^{10,11}	MC ^{4,11}	NL	NL	MC ¹²	PN ¹³	MC ¹¹
California	MC	MC ¹⁰	MC ^{2,16,17}	MC ^{2,4}	MC ^{2,4}	NL	NL ⁸	NL
Colorado	MC ^{7,18}	NL	MC ¹⁶	MC	MC ^{4,19}	NL	NL ⁸	MC ¹¹
Connecticut	NL	NL	MC ¹⁶	MC	MC	NL	MC	MC
Delaware	MC ^{2,4}	MC ^{2,4,10,11}	MC ^{2,4,11,16}	MC ²	NL	MC ⁷	PN ^{20,21}	MC ¹¹
Dist. Columbia	MC	MC	MC	MC	MC	NL	MC	MC
Florida	MC ^{7,18}	MC ¹¹	MC ³	MC	MC ²³	NL	NL ⁸	MC ¹¹
Georgia	MC	MC ¹⁰	MC ^{3,4,11}	MC ⁴	NL	NL	PN	MC ¹¹
Hawaii	MC ^{4,24,25}	MC ^{4,10,24,25}	MC ^{4,24,25}	MC ⁴	NL	NL	NL	NL
Idaho	MC	NL	MC ^{3,24}	MC	NL	MC ²⁸	PN ^{13,29}	MC ¹¹
Illinois	MC ^{7,18}	MC ^{11,18}	MC ^{2,3,4}	MC ^{2,4}	MC ^{2,4}	MC ^{7,11}	NL ⁸	MC ¹¹
Indiana	NL	NL	MC	MC	NL	NL	PC	NL
Iowa	NL	NL	MC ^{16,31}	MC	NL	NL	PN ²¹	NL
Kansas	NL ¹²	MC ^{11,33}	MC ⁴	MC	NL	MC ^{11,33}	PN	MC ¹¹
Kentucky	MC ⁴	MC ^{4,10}	MC ^{3,4}	MC ⁴	MC ^{4,6}	MC ^{4,7}	PC	MC ¹¹
Louisiana	NL	NL	MC ⁴	MC ⁴	NL	MC ^{4,11}	PC	MC ¹¹
Maine	MC ^{7,18}	NL	MC ⁴	MC ⁴	NL	NL	MC	NL
Maryland	MC ⁴	MC ⁴	MC ⁴	MC ⁴	MC ^{4,6}	MC ^{4,7}	PN ²¹	MC
Massachusetts	NL ³⁶	MC ¹⁰	MC	MC ^{2,37}	MC ⁶	MC ⁷	PC	MC
Michigan	NL	MC ⁴	MC ^{4,16}	MC ⁴	MC ²⁴	NL	PC	MC
Minnesota	MC ⁴	MC ⁴	MC ⁴	MC ⁴	NL	MC ^{4,7}	PN ¹³	MC
Mississippi	MC ^{7,18}	MC ¹¹	MC ³	MC ^{4,19}	NL	PC	PC ¹³	MC ¹¹
Missouri	NL	MC ^{4,10,11}	MC ^{4,11}	MC ^{4,11}	NL	MC ^{7,11}	PC	MC ¹¹
Montana	MC ⁴	MC ^{4,11}	MC ^{4,11,16}	MC ^{4,11}	MC ⁶	MC ^{4,7,11}	NL ⁸	MC ¹¹
Nebraska	NL	NL	MC	MC	NL	NL	PN	NL
Nevada	NL	NL	MC ³	MC	NL	MC ^{7,12,18}	NL ⁸	MC
New Hampshire	NL	NL	MC ²⁴	MC ²	NL	MC ¹²	NL	NL
New Jersey	NL	MC ^{4,11}	MC ^{4,11}	MC ⁴	NL	MC ⁷	NL ⁸	MC ¹¹
New Mexico	MC	NL ⁴²	MC ^{16,17}	NL	MC	NL	NL ⁸	NL
New York	NL ³⁶	MC	MC ¹⁶	MC ⁴	MC ⁴	MC ⁷	NL	MC
North Carolina	MC	MC ¹⁰	MC ³	MC	MC	NL ⁴³	PC ²¹	NL
North Dakota	NL	NL	MC ^{24,44}	MC ²⁴	NL	NL	PC ¹³	NL
Ohio	NL	NL	MC ^{16,17}	MC	MC ²⁴	NL	PN ^{21,29}	NL
Oklahoma	MC ^{4,45}	MC ^{4,10}	MC ^{3,4}	MC ⁴	NL	MC ^{4,7}	NL	MC
Oregon	MC ⁴	NL	MC ^{3,11}	MC ^{4,24}	MC ^{4,24}	MC ^{4,11,19}	NL	NL
Pennsylvania	NL	MC	MC ³	MC ⁴	NL	MC ⁵	PC	MC
Rhode Island	NL	NL	MC ¹⁶	MC	NL	NL	PC	MC
South Carolina	MC ⁴⁷	NL ⁴⁷	MC ⁴⁷	NL ⁴⁷	NL ⁴⁷	MC ^{6,47}	PC ^{21,48}	MC
South Dakota	NL	NL	MC	MC	NL	NL ³³	PN	NL
Tennessee	MC	MC	MC ³	MC ⁴	MC ⁶	NL	PC	NL
Texas	NL ⁵⁰	MC ^{4,10,11}	MC ^{3,4,11}	MC ⁴	MC	NL	PN	NL
Utah	NL ⁵⁰	MC	MC	NL	NL	PC	PN ⁵²	MC
Vermont	NL	NL	MC ^{2,3}	MC ²	NL	NL	NL	NL
Virginia	MC	MC	MC ³	MC	MC	NL ³³	PN ²¹	MC ¹¹
Washington	NL ⁵⁴	NL ⁵⁴	MC ^{3,11,24}	MC ²³	MC ²³	NL	NL	NL
West Virginia	NL	NL	MC	MC	NL	NL	PN ²¹	NL
Wisconsin	NL	NL	MC	MC ²	NL	NL	PC ²¹	NL
Wyoming	MC	NL	MC ³	NL	NL	NL	PC	NL

MC = Minor explicitly authorized to consent. MD = Minor allowed to decide. PC = Parental consent explicitly required. * PN = Parental notice explicitly required. * * When a state requires parental consent or notice for abortion services, the state must provide the minor a confidential and speedy alternative, usually through a court proceeding. NL = No law or policy found. (Note: Minors have constitutional rights to obtain certain reproductive health services — including contraceptives, abortions, and prenatal care — and may do so on their own, not only when state law specifically grants them this right, but also when state law is silent.) In all but four states, the age of majority is 18. In AL and NE, it is 19, and in PA and MS, it is 21; however, in MS, 18 is the age of consent for health care.

NOTES

This chart is adapted from Heather Boonstra and Elizabeth Nash, *Minors and the Right to Consent to Health Care*, 3 The Guttmacher Report on Public Policy 4, 6-7 (2000), a publication of the Alan Guttmacher Institute.

1. [Endnote omitted.]
2. Minor must be at least 12.
3. State officially classifies HIV/AIDS as an STD or infectious disease, for which minors may consent to testing and treatment.
4. Doctor may notify parents.
5. Minor must be a high school graduate, married, pregnant or a parent, or, in AL, at least 14.
6. Minor must be at least 16.
7. Minor may consent if a parent; also if married in DE, KY, ME, MD, MN, MS, MO and NV; also if married or pregnant in CO, FL, IL, MA, MT, NJ, NY and OK.
8. Law has been blocked by court action.
9. [Endnote omitted.]
10. Excludes abortion.
11. Includes surgery.
12. Any minor who is mature enough to understand the nature and consequences of the proposed medical or surgical treatment may consent.
13. Involvement of both parents is required.
14. [Endnote omitted.]
15. [Endnote omitted.]
16. Law explicitly authorizes minor to consent to HIV testing and/or treatment.
17. Law does not apply to HIV treatment.
18. Minor may consent if has a child or doctor believes minor would suffer "probable" health hazard if services not provided; in IL also if minor is referred by doctor, clergyman or Planned Parenthood clinic; in CO and MS also if minor is referred by a doctor, clergyman, family planning clinic, school of higher education or state agency.
19. Minor must be at least 15.
20. Applies to minors younger than age 16.
21. Includes an alternative to parental involvement or judicial bypass. In MD the law provides for a physician bypass but does not have a judicial bypass.
22. [Endnote omitted.]
23. Minor must be at least 13.
24. Minor must be at least 14.
25. Excludes surgery.
26. [Endnote omitted.]
27. [Endnote omitted.]
28. The state's medical consent statutes allow "any person of ordinary intelligence and awareness" to consent to hospital, medical, surgical or dental care. Although a later section authorizes parents to consent for a minor child, the attorney general's office "frequently" interprets the law as authorizing minors to consent. (R. Hardin, deputy attorney general, personal communication to P. Donovan, AGI, Oct. 22, 1990, reconfirmed to E. Nash, AGI, by R. Hardin, July 19, 2000.)
29. A revised law that requires parental consent is currently not in effect; meanwhile, the parental notification requirements remain in effect.
30. [Endnote omitted.]
31. Parent must be notified if HIV test is positive.
32. [Endnote omitted.]
33. Minor may consent if parent is not "available" or in the case of general medical care "not immediately available."
34. [Endnote omitted.]
35. [Endnote omitted.]
36. The state funds a statewide program that gives minors access to confidential contraceptive care.
37. Minor may consent if found drug-dependent by two doctors; bars consent to methadone maintenance therapy.
38. [Endnote omitted.]
39. [Endnote omitted.]
40. [Endnote omitted.]
41. [Endnote omitted.]
42. Minor may consent to pregnancy testing and diagnosis.
43. Law allows minors to consent when parent or guardian is not "immediately available."
44. Parent must be shown the informed consent form for an HIV test before the minor signs it.
45. Minor may consent if she has ever been pregnant.
46. [Endnote omitted.]
47. Any minor 16 and older may consent to any health service other than operations. Health services may be rendered to minors of any age without parental consent when the provider believes the services are necessary.
48. Applies to minors younger than age 17.
49. [Endnote omitted.]
50. State funds may not be used to provide minors with confidential contraceptive services.
51. [Endnote omitted.]
52. Law does not include a judicial bypass.
53. [Endnote omitted.]
54. Providers rely on *State v. Koome*, which held that minors have the same constitutional rights as adults, to provide confidential contraceptive services and prenatal care to minors.
55. [Endnote omitted.]

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