

PENNSYLVANIA

# Minor Consent and Confidentiality

## A Compendium of State and Federal Laws

National Center  
for Youth Law

[teenhealthlaw.org/compendium](https://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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# PENNSYLVANIA

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## Quick Guide

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## General

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## Minor Consent to Health Care—Services

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## Other

- S** "Conversion Therapy," Ban<sup>4</sup>
- 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 found<sup>5</sup>
- F** Federal/other law may apply

<sup>1</sup> 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.

<sup>2</sup> 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).

<sup>3</sup> This category includes parental involvement laws.

<sup>4</sup> This category includes statutes or case law that ban conversion therapy or prohibit banning of conversion therapy.

<sup>5</sup> 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 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

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](https://www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde_index.cfm)

Pennsylvania Bulletin (regulations) <https://www.pacodeandbulletin.gov/Home/Pabull>

## Appendices

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