

Confidentiality/Minor Consent Laws

For Educational Purposes Only

PARENT/GUARDIAN CONSENT EXCEPTIONS

A parent or guardian must provide consent on behalf of a minor (under age 14) before health care services are provided, with several important exceptions. These exceptions are based on a minor's status, the type of service requested, or the clinic's funding source.

Minor Consent Based on Status: A minor can consent to any legally authorized medical, dental, health, or mental health services for themselves without the consent of a parent or guardian if they are:

- 14 years of age or older -OR-
- Under 14 and has graduated from high school -OR-
- Under 14 and married or divorced -OR-
- Under 14 and pregnant -OR-
- Under 14 and a parent

Minor Consent Based on Service: Patients under 14 may consent to the following WITHOUT parental consent:

- Non-prescription contraceptives such as condoms or over-the-counter emergency contraception
- Testing and treatment for sexually transmitted infections (STIs) including HIV
- Pregnancy and prenatal care, other than abortion
- Medical care for their children
- Counseling and treatment for substance abuse
- Counseling and treatment for mental health

Minor Consent Based on Service: Pre-exposure Prophylaxis (PrEP):

- Minors 14 years or older may receive PrEP services without parental consent.

Minor Consent Based on Funding Source (Medicaid or Title X):

- Minors can receive contraceptive and preventive services at any Title X clinic without parental consent.
- Minors with Medicaid coverage can consent to family planning services without parental consent in any setting that provides services funded by Medicaid.
- Minors may receive all FDA-approved contraceptive methods, including long-acting methods such as the implant or IUD, without parental consent if they are at a Title X clinic or clinic funded by Medicaid.

Minors accessing care through a Title X clinic and minors with Medicaid coverage accessing contraceptive services through a Medicaid-funded clinic have a right to confidentiality under federal law. In other settings, providers exercise professional discretion in deciding whether to disclose minors' information to parents.

MINORS NEED A PARENT/GUARDIAN'S PERMISSION FOR:

- Prescription contraception unless the minor is covered by Medicaid or seeking care in a Title X clinic.

21ST CENTURY CURES ACT:

The 21st Century Cures Act requires health care providers to make all electronically maintained health information, except for psychotherapy notes, easily accessible to patients in a reasonable time frame. Recommendations from the American Academy of Pediatrics (AAP) state that minors should have access to their health information separate from their parent's. An identity verification process should be implemented when health information is available through a portal or app to reduce the likelihood of someone other than the minor accessing the application. The AAP also offers the following guidance for sharing health information:

- Offer access to as much health information as possible through apps, portals, or other avenues that are compliant with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), without requiring additional action or fees from the patient.
- Establish procedures for health information requests from different parties.
- Create protocols for what health information will not be shared with patients or parents, even if it is requested, based on state and federal law. Under HIPAA, parents are allowed to have access to a minor's medical record with certain exceptions, including in situations where a parent's consent for health care was not required for the minor to access services. Additionally, providers have the discretion to limit the sharing of information with parents if the minor may be at risk of physical harm by their parent due to the contents of their health record and if it is not possible to separate information protected by confidentiality laws.

Check out the [Confidentiality Best Practices Spark](#) for more tips!

HEALTH CARE PROVIDERS MUST OVERRIDE THE MINOR'S CONFIDENTIALITY AND REPORT IF:

- There is suspicion of abuse or neglect by an adult
- The minor is at risk to themselves or someone else
- There is suspicion of sexual abuse and/or exploitation
- The minor is under 16 and has been sexually active with individual over the age of 18 (or over the age of 16 if the minor is at least two years younger)

Reports should be made immediately to a local law enforcement agency or the County Department of Human Resources. For more information, see <https://dhr.alabama.gov/>.

REFERENCES

Guiding Principles for Information Sharing and Blocking in Pediatric Care. American Academy of Pediatrics, October 2022. <https://www.aap.org/en/practice-management/health-information-technology/what-pediatricians-need-to-know-about-the-21st-century-cures-act-interoperability-final-rule>

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Pediatric Information Blocking Use Cases. American Academy of Pediatrics, October 2022. <https://www.aap.org/en/practice-management/health-information-technology/pediatric-information-blocking-use-cases/>