

Confidentiality/Minor Consent Laws

For Educational Purposes Only

PARENT/GUARDIAN CONSENT EXCEPTIONS

A parent or legal guardian must provide consent on behalf of a minor (under age 18) before health care services are provided, with nine important exceptions. These exceptions are based on a minor's **status** or the **type of service** requested.

Minor Consent Based on Status: A minor can consent to health care services without a parent or guardian if they are:

- Married
- Pregnant*
- Emancipated by court order

Minor Consent Based on Service:

Patients under 18 are able to do the following **WITHOUT** parental consent:

- Emergency medical, surgical, hospital or health services IF the parent/legal guardian cannot be reached or is not readily available
- Contraceptives and family planning services including emergency contraception
- Testing and treatment for sexually transmitted infections (STIs), including HIV**
- A minor may consent to an abortion, but the minor's parent(s) or legal guardian must be notified at least 24 hours in advance. Judicial bypass is available in Georgia for minors that wish to forgo this requirement. The only exception to the rule is a medical emergency.
- Pregnancy and prenatal care
- Substance use treatment and services, including alcohol***

MINORS NEED A PARENT/GUARDIAN'S PERMISSION FOR:

- Vaccines, including HPV
- Inpatient and outpatient mental health treatment

INFORMING THE PARENT

There are a few circumstances where a provider is **permitted** (but not always required) to notify a parent. In each of these situations, the provider should use discretion in deciding whether telling a parent is in the best interest of the minor or encourage the minor to involve their parent/guardian whenever possible.

- A provider may inform the minor's parent/legal guardian of the minor's decision to get STI testing and/or care, but is not required****
- Clinical staff may, but are not obligated to, notify the parent or legal guardian of a minor who is receiving or who needs treatment for HIV****
- Treatment for substance use, including alcohol

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

- There is suspicion of abuse or neglect
- If the minor poses a danger to self or others
- The minor has had oral or sexual intercourse with a person more than 5 years older[☆]
- The minor has had oral or sexual intercourse with a person more than 5 years younger[☆]

Note: There is no state statute that requires providers to ask minor patients the age of their sexual partner.

ACCESSING RECORDS

In general, a minor's parent/legal guardian is authorized to access the minor's medical records. However, a minor's **confidentiality may be protected** if:

- The parent/guardian's consent was not required for the service
- When the minor obtains care by direction of the court
- The parent/guardian consented to a confidential relationship between the minor and health care provider
- The health care provider believes the minor is being abused or neglected or may be harmed by disclosure

REFERENCES:

Guttmacher Institute. An Overview of Consent to Reproductive Health Services by Young People. 2021. Online. <https://www.guttmacher.org/state-policy/explore/overview-minors-consent-law>

Guttmacher Institute. Minor's Access to STI Services. 2021. Online <https://www.guttmacher.org/state-policy/explore/minors-access-sti-services#>

English A, Bass L, Boyle AD, Eshragh F, editors. State Minor Consent Laws: A Summary 3rd Edition. Center for Adolescent Health & the Law. 2010. Online. <https://www.freelists.org/archives/hilac/02-2014/pdfRo8tw89mb.pdf>
Georgia Department of Public Health Rapid HIV Testing Protocols and Quality Control. 2017. Online.

Georgia Specific Legal Provisions:

**No specific legal provision was found expressly authorizing unmarried pregnant minors to consent for health care generally. 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, prevention of pregnancy, or childbirth. According to Ga. Code Ann § 31-9-5, this section does not apply to abortion and sterilization procedures.*

*** Georgia law does not expressly allow minors to consent to HIV pre-exposure prophylaxis (PrEP) without parental/guardian involvement under the definitions of testing and treatment for STIs under Ga. Code § 31- 17-7(a) and Ga. Code § 31- 17-7(b). It is considered best practice as part of routine STI prevention to counsel clients on PrEP use when indicated or requested. However, we recommend that you confer with your legal and/or risk management team, and state public health officials, to develop institutional policies around providing PrEP without parental/guardian consent. You can contact the Georgia Department of Public Health STD Office at (877) 783-4374.*

**** Ga. Code Ann § 37-7-8 provides that a minor may consent for medical or surgical care or services related to conditions or illnesses arising out of substance use. The consent of no other person is necessary. Ga. Code Ann. § 37-7-8 provides that upon the advice and direction of a treating physician, a member of the medical staff or physician may, but is not obligated to, inform the spouse, parent, custodian, or guardian of the minor as to the treatment given or needed for substance use.*

*****Under Code Section 31-17-7(b), clinical staff may, but are not obligated to, notify the parent or legal guardian of a minor who is receiving or who needs treatment for STIs including HIV.*

☆ Georgia Code Title 16. Crimes and Offenses § 16-6-3: If the victim is at least 14 but less than 16 years of age and the person convicted of statutory rape is 18 years of age or younger and is no more than four years older than the victim, such person shall be guilty of a misdemeanor.