

Maryland Confidentiality and Minor Consent Laws

For Educational Purposes Only

PARENT/GUARDIAN CONSENT EXCEPTIONS

- Generally, a health-care provider may not provide health care to a minor (under age 18) without the consent of the minor's parent or legal guardian. There are several important exceptions to this rule, however:

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

- Married; or
- The parent of a child; or
- 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
- Self-supporting, regardless of the source of the minor's income

Minor Consent Based on Service: Patients under 18 have the right to the following WITHOUT parental consent:

- Emergency care
- *Abortion (Parental notification is required, but consent is not needed for the procedure.)
- Diagnosis and/or treatment for sexually transmitted infections, including HIV/AIDS
- The use of PrEP for HIV prevention
- Treatment or advice about:
 - Substance use
 - Alcoholism
 - Pregnancy
 - Contraception other than sterilization
 - Examination and treatment of injuries from an alleged rape or sexual offense
 - Examination to obtain evidence from an alleged rape or sexual offense
 - Initial medical screening and examination upon admission into a detention center
- Consultation, diagnosis, and treatment for outpatient mental health services (only minors ages 16+)

CONFIDENTIALITY AND PARENTAL/GUARDIAN ACCESS TO HEALTH INFORMATION

The Health Insurance Portability and Accountability Act (HIPAA) determines whether a minor has access to the minor's protected health information (PHI, or any information in a medical record that can be used to personally identify an individual like names, diagnosis, etc.) and whether a parent or guardian also has access to that minor's PHI. HIPAA states:

- Maryland statutes permit a minor to obtain certain health-care services without the consent of a parent or guardian. In the situations listed above, a provider must treat the minor as the health-care decision-maker. HIPAA rules apply when the minor can consent to the services, therefore, their health information cannot be released to anyone unless the minor consents. (See above for those areas where a minor may obtain a health-care service without the consent of a parent.)

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- Maryland statutes allow a parent or guardian to act on the behalf of a minor in making health-care decisions except as noted above. In those situations, when a minor cannot consent to their own care, a health-care provider must treat that parent or guardian as the health-care decision-maker and give that parent or guardian access to the minors non-protected PHI. A licensed health-care provider must exercise professional judgment in making this decision.

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

There is reason to believe that a minor has been subjected to abuse** or neglect**, including:

- Physical or mental injury of a minor that indicates that the minor’s health or welfare is harmed or at substantial risk of being harmed
- Sexual abuse***
- Leaving the minor unattended or other failure to give proper care and attention to a minor by any parent or person who has permanent or temporary care for supervision of the minor

For more information:

[Maryland Department of Health: Treatment of Minors](#)

[American Academy of Pediatrics: Maryland Minor Consent Laws](#)

[National Family Planning & Reproductive Health Association- Protecting Patients’ Privacy in Health Insurance & Billing Claims: A Maryland Profile](#)

[Rape, Abuse & Incest National Network: Maryland Mandatory Reporting Requirements](#)

[Maryland Strengthens Efforts to Fight Human Trafficking and Support Survivors](#)

*Without the consent of or over the express objection of a minor, a licensed health care practitioner may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor under this section, except information about an abortion. (20-102)

**These terms have specific definitions in state law. Please consult an attorney for any questions you have about their meaning and application.

***Sexual abuse involving a minor means any of the following:

- Sexual molestation or exploitation of a child by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, by any household or family member, or by a person who, because of the person’s position or occupation, exercises authority over the child.
- Sex trafficking of a child by any individual.