

NEBRASKA

Minor Consent and Confidentiality

A Compendium of State and Federal Laws

National Center
for Youth Law

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.

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Disclaimer

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NEBRASKA

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Quick Guide

See glossary for explanation of categories and definitions of terms.

General

- S** Age of Majority
- S** Emancipation
- S** Minor Marriage

Minor Consent to Health Care—Services

- S** Abortion³
- Emergency Care
- F** Family Planning/Contraceptives
- S** Outpatient Mental Health Care
- F** Pregnancy-Related Care
- Reportable, Communicable, Infectious Disease Care
- Sexual Assault Care
- S** **F** Sexually Transmitted Infection/Disease/HIV Care
- S** Substance Use Care

Confidentiality and Disclosure

- S** **F** Confidentiality/Access to Records
- S** **F** Disclosure to Parents/Guardians
- F** Insurance Claims/Billing

Minor Consent to Health Care—Minor's Status

- S** Emancipated Minor
- High School Graduate
- S** Married Minor
- Minor, Age or Maturity
- Minor in Armed Forces
- Minor Living Apart from Parent/Guardian
- Minor Parent
- Minor in State Custody
- Pregnant Minor

Other

- S** Emergency Care
- S** Financial Responsibility
- S** Gender Affirming Care, Restriction
- S** Good Faith Reliance/Immunity from Liability
- S** Organ Donation, Minor Consent
- S** Parent Delegation to Minor Age 18, Minor Consent

Key

- S** State law found⁴
- F** Federal/other law may apply

¹ 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.

² 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).

³ This category includes parental involvement laws.

⁴ 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

Neb. Rev. Stat. § 43-2101 provides that the age of majority is 19 except a person 18 or older may enter into a binding contract of whatever kind or nature and consent to mental health services.

Emancipation

Neb. Rev. Stat. §§ 43-4801 – 43-4812 set forth the procedures for a minor to become emancipated. *Neb. Rev. Stat. § 43-4802* allows minors to file a petition for emancipation if they are age 16 years, married or living

apart from their parents or legal guardian, and legal residents of the state. *Neb. Rev. Stat. § 43-4810* states the effects of a judgment of emancipation.

Neb. Rev. Stat. § 43-2101 provides that if a minor marries under the age of 19, the period of minority ends.

Minor Marriage

Neb. Rev. Stat. §§ 42-102 and 42-105 provide that a minor age 17 years may marry with the written consent of a parent or legal guardian.

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**

Neb. Rev. Stat. § 43-4810 provides that an emancipated minor may consent to "medical, dental, or psychiatric care without the consent, knowledge, or liability of parents or a guardian."

Married Minor

Neb. Rev. Stat. § 43-2101 provides that if a minor marries under the age of 19, the period of minority ends.

Minor Consent—Services**Abortion**

Abortion is banned in Nebraska with limited exceptions. *Neb. Rev. Stat. §§ 71-6912 -- 71-6917*, enacted in 2023, ban abortion after 12 weeks, with limited exceptions for medical emergency, rape and incest. The federal district court dismissed a challenge to this law in *Planned Parenthood of the Heartland and Sarah Traxler v. Hilgers*, No. CI 23-2820 (Neb. Dist. Ct. Aug. 11, 2023). Pre-existing restrictions on abortion have not been repealed. For up to date information on the status of abortion restrictions in Nebraska, see [Center](#)

[for Reproductive Rights, After Roe Fell: Abortion Laws by State.](#)

Within the limited exceptions in which abortion is legal, *Neb. Rev. Stat. §§ 71-6901 - 71-6911* provide that an unemancipated minor under age 18 may not obtain an abortion without prior notarized written consent of a parent or guardian. The law includes a judicial bypass, an emergency exception, and an exception for reported cases of sexual abuse, abuse, or neglect. For up to date information on parent involvement and judicial bypass, find the "under age..." section on your state's link in [If When How's Abortion Laws by State.](#)

These laws are changing rapidly, so consultation with counsel is also essential. 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.](#)

Family Planning/ Contraceptives

No Nebraska statute was found expressly authorizing minors to consent for contraceptives.

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

Neb. Rev. Stat. § 43-2101 provides that a person age 18 years or older may consent to mental health services without the consent of a parent or guardian.

In the Mental Health Commitment Act, *Neb. Rev. Stat. § 71-918* provides that “any person” may voluntarily apply for admission to any public or private hospital, other treatment facility, or program for treatment of mental illness, substance dependence, or personality disorders in accordance with the regulations of such facilities or programs governing such admissions. Any person who is voluntarily admitted for such treatment shall be unconditionally discharged from such hospital, treatment facility, or program not later than forty-eight hours after delivery of his or her written request to any official of such hospital, treatment facility, or program, unless action is taken under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act to continue his or her custody. The Act includes definitions for key terms including “treatment facility.”

Pregnancy-Related Care

No statute in Nebraska law expressly authorizes minors to consent for pregnancy-related care.

See **Appendix I** for information about the Title X Family Planning Program and minor consent for family planning, including certain pregnancy-related care.

Sexually Transmitted Infection/Disease/HIV Care

Neb. Rev. Stat. § 71-504 provides that any person may give consent to a chief medical officer as designated in § 81-3115 or local director of health, if a physician, or their agent, or any physician, for diagnostic examination, prescription, and treatment, including prophylactic treatment for exposure, for a sexually transmitted disease if the person is suspected of having a sexually transmitted disease or contact with anyone having a sexually transmitted disease. All such examinations and treatment may be performed without the consent of or notification to the parent, parents, guardian, or any other person having custody of such person.

Neb. Rev. Stat. § 71-502.01 provides: “Sexually transmitted diseases are declared to be contagious, infectious, communicable, and dangerous to the public health. Sexually transmitted diseases shall include, but not be limited to, syphilis, gonorrhea, chancroid, and such other sexually transmitted diseases as the Department of Health and Human Services may from time to time specify.”

173 NAC 1-004.05 contains a list of sexually transmitted diseases, which includes HIV.

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

In the Mental Health Commitment Act, *Neb. Rev. Stat. § 71-918* provides that any person may voluntarily apply for admission to any public or private hospital, other treatment facility, or program for treatment of mental illness, substance dependence, or personality disorders in accordance with the regulations of such facilities or programs governing such admissions. Any person who is voluntarily admitted for such treatment shall be unconditionally discharged from such hospital, treatment facility, or program not later than forty-eight hours after delivery of his or her written request to any official of such hospital, treatment facility, or program, unless action is taken under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act to continue his or her custody. The Act includes definitions for key terms including “treatment facility.”

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

Contagious, Infectious, and Sexually Transmitted Diseases

Neb. Rev. Stat. § 71-511 provides for the confidentiality of patient information and test results for contagious, infectious, and sexually transmitted diseases and specifies limitations on disclosure; the information may be released with the written consent of the patient or individual or, if the patient or individual is deceased or incapable of giving informed consent, with the written consent of his or her next of kin, legal guardian, or personal representative of his or her estate.

Medical Records

Neb. Rev. Stat. § 71-8403 provides that “a patient” or the patient’s guardian or other authorized representative may request a copy of the patient’s medical records or may request to examine such records and that access to such records shall be provided upon request pursuant to §§ 71-8401 – 71-8407, except that mental health medical records may be withheld if any treating physician, psychologist, or mental health practitioner determines in his or her professional opinion that release of the records would not be in the best interest of the patient unless the release is required by court order.

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

Sexually Transmitted Disease

Neb. Rev. Stat. § 71-504 provides that when a minor receives care related to a sexually transmitted disease, notification to the parent, parents, guardian, or any other person having custody of such person is not required. However, see *Financial Responsibility* below.

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.

Emergency Care

Neb. Rev. Stat. § 38-1232 provides that emergency care providers, physician assistants, registered nurses, or licensed practical nurses are not liable in a civil action for damages when they provide public emergency care in good faith in the absence of willful, wanton, or grossly negligent acts of commission or omission; and qualified physicians or qualified physician surrogate who gives orders to any emergency care provider at the scene of an emergency and emergency care providers following such orders within the limits of their licensure, and emergency care provider trainees in an approved training program following such orders, are liable civilly or criminally by reason of having issued or followed such orders but shall be subject to the rules of law applicable to negligence.

Financial Responsibility

Neb. Rev. Stat. § 71-504 provides that when a minor receives care related to a sexually transmitted disease, the parents are liable for the expenses if the minor is in their custody.

Gender Affirming Care, Restrictions

Neb. Rev. Stat. §§ 71-7301 – 71-7307, enacted in 2023, prohibit a health care practitioner from performing “gender-altering procedures” on an individual younger than age 19 years; a violation is considered unprofessional conduct. Treatment with “puberty blocking drugs” and “cross-sex hormones” where that treatment commenced prior to October 1, 2023 may be continued.

Non-surgical “gender-altering procedures,” including “puberty blocking drugs” and “cross-sex hormones,” are permitted after October 1, 2023 in compliance with

regulations issued by the Department of Health and Human Services. *181 N.A.C 8-001 – 015* contain these regulations, including detailed requirements for individuals under age 19 years to receive non-surgical gender-altering procedures. Individuals who received gender-altering procedures before the age of 19 years in violation of the statutory prohibition, or their parent or guardian may bring a civil action for damages. *Neb. Rev. Stat. § 71-7303* defines “cross-sex hormones”, “gender-altering surgery” and other terms for this purpose.

For up to date information on the status of protections and restrictions on gender affirming care for minors, see [Movement Advancement Project’s “Equality Maps: Bans on Best Practice Medical Care for Transgender Youth”](#). These laws are changing rapidly so consultation with counsel is essential. See also [Appendix G](#).

Good Faith Reliance/Immunity from Liability

Neb. Rev. Stat. § 71-504 provides that when a minor receives care related to a sexually transmitted disease without consent of or notification to the parent, parents, guardian or other person having custody of the minor, “the chief medical officer, or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions.”

Organ Donation, Minor Consent

Neb. Rev. Stat. § 71-4827 provides that a minor may consent to their own organ donation if they are emancipated or they are at least age 16 years old and authorized under state law to apply for a driver’s license.

Parent Delegation to Minor Age 18, Minor Consent
Neb. Rev. Stat. § 30-2604 provides that a parent or guardian of a minor who is at least age 18 years and who is not a ward of the state, by a properly executed power of attorney, may delegate to such minor, for a period not exceeding one year, the parent's or guardian's power to consent to such minor's own health care and medical treatment.

Resources

Nebraska Statutes <https://nebraskalegislature.gov/laws/laws.php>

Nebraska Administrative Code <https://rules.nebraska.gov/>

Appendices

Appendix A. Glossary of Terms

Appendix B. Overview of Consent and Confidentiality When Minors Seek Health Care

Appendix C. Contraception, Abortion, and Pregnancy-Related Care for Minors: Consent and Confidentiality Considerations

Appendix D. Sexually Transmitted Infections, Sexually Transmitted Diseases, and HIV Care for Minors: Consent and Confidentiality Considerations

Appendix E. Mental Health Care for Minors: Consent and Confidentiality Considerations

Appendix F. Substance Use Care for Minors: Consent and Confidentiality Considerations

Appendix G. Gender Affirming Care for Minors: Consent and Confidentiality Considerations

Appendix H. HIPAA Privacy Rule and Confidentiality Implications for Minors' Health Information

Appendix I. Title X Family Planning Program and Family Planning Services for Minors

Appendix J. 42 CFR Part 2 and Confidentiality Implications for Substance Use Care for Minors

Appendix K. FERPA and Confidentiality Implications for School-Based and School-Linked Health Care for Minors

Appendix L. Confidentiality in Health Insurance Claims and Billing

Appendix M. Electronic Health Information, the 21st Century Cures Act, and Confidentiality for Minor Patients

Appendix N. State Law Table: Minor Consent/Access Based on Status

Appendix O. State Law Table: Minor Consent/Access for Specific Services