Confidentiality/ Minor Consent Laws

PARENT/GUARDIAN CONSENT EXCEPTIONS

A parent or legal guardian generally provides consent on behalf of a minor (under age 18) before health care services are provided, with **several important exceptions**:

- **Emergency care**
- **Care for minors who can legally consent to their own health care**
  - Emancipated minors
  - Married minors
  - Unemancipated minors who are able to understand the proposed treatment and its possible consequences
- **Specific health care services related to:**
  - Pregnancy and childbirth
  - Contraception
  - Sexually transmitted infections (STIs)

Minors can consent to the following without parental/guardian consent:

- Pregnancy-related care and prenatal care
- Birth control information and contraceptives
- Testing and treatment for sexually transmitted infections (STIs)

NOTE: A minor's ability to consent to care does not always mean the care is confidential from a parent/guardian. Confidentiality depends on the type of care, setting, applicable state and federal law, and other factors.

OUTPATIENT MENTAL HEALTH CARE

- Arkansas does not have a law that specifically allows minors, based on age alone, to consent to outpatient mental health services
- Other minor-consent provisions may apply depending on the minor's circumstances

MINORS GENERALLY NEED A PARENT/GUARDIAN'S PERMISSION FOR:

- Inpatient mental health treatment
- Other health care when the minor does not independently meet a legal basis for consent

ABORTION

- Abortion is prohibited in Arkansas except when necessary to save the life of a pregnant patient in a medical emergency
- When an abortion is legally permitted, additional consent requirements apply to unemancipated minors

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MINOR ACCESS TO PREP (PRE-EXPOSURE PROPHYLAXIS)

- Minors may be able to access PrEP without parental consent depending on the health care setting and the minor's legal authority to consent
- Title X-funded clinics follow federal requirements related to confidential family planning services for minors
- Providers should consider Arkansas minor-consent law and applicable federal requirements when providing PrEP to minors

HEALTH CARE PROVIDERS MUST FOLLOW MANDATORY REPORTING AND SAFETY REQUIREMENTS WHEN:

- There is reasonable cause to suspect child maltreatment, including abuse or sexual abuse
- Disclosure or action is otherwise required by law, professional duties, and clinic policy to protect the minor or another person from a serious safety threat

DISCLOSURE TO PARENTS/GUARDIANS:

- A minor's ability to consent does not necessarily determine whether information may be disclosed to a parent/guardian
- For STI care, a physician may inform a parent/guardian about treatment given or needed but is not required to do so
- Other confidentiality rules depend on the type of service, provider, setting, funding source, and applicable state and federal law

SCHOOL-BASED HEALTH CENTER NOTE:

- Arkansas requires parental consent before a minor receives services through a school-based health clinic
- Parental consent for contraceptive services and condom distribution at a school-based health clinic must be specific and in writing

References:
English, A., & Gudeman, R. *Minor Consent and Confidentiality: A Compendium of State and Federal Laws: Arkansas.* National Center for Youth Law, August 2024. https://youthlaw.org/sites/default/files/2024-10/NCYLMinorConsentCompendium2024-Arkansas.pdf

Arkansas General Assembly. *Arkansas Code and Constitution of 1874.* Arkansas Bureau of Legislative Research. https://www.arkleg.state.ar.us/ArkansasLawarkleg.state

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