

Confidentiality/Minor Consent Laws

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 **several important exceptions**. These exceptions include:

- **Emergency careⁱ**
 - If parents or guardian of the minor cannot with reasonable diligence be located and the minor's need for health care treatment is sufficiently urgent to require immediate attention
- **Care for emancipated minorsⁱ**
 - Minors can be emancipated by: court order, marriage, and military service
- **Care for a minor who is living apart from his/her parents or guardian and is managing his/her own affairs regardless of his source of incomeⁱ**
- **Specific health care services related to:**
 - Sexual health (e.g. Sexually transmitted disease (STD) examination and treatment; sexual assault care (if the parents or guardian of the minor cannot be located promptly with diligent effort))
 - Tobacco cessation

Wyoming laws explicitly provide patients under 18 the right to the following **WITHOUT** parent/guardian consentⁱⁱ:

- Examination & treatment for any STDⁱⁱⁱ
- Sexual assault care (if the parents or guardian of the minor cannot be located promptly with diligent effort)^{iv}
- Tobacco cessation services (if minor is 12 years of age or older, is a smoker or user of tobacco products, and the health care to which the minor consents is a tobacco cessation program approved by the department of health)^v

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

- The minor is a risk to themselves or someone else
- There is suspicion of physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means
- There is suspicion of the commission or allowing the commission of a sexual offense against the minor

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) and whether a parent or guardian also has access to that minor's PHI. The following is an excerpt provided by the U.S. Department of Health and Human Services answering the frequently asked question: "Does the HIPAA Privacy Rule allow parents the right to see their children's medical records?"

"The HIPAA Privacy Rule generally allows a parent to have access to the medical records about his or her child, as his or her minor child's personal representative when such access is not inconsistent with State or other law.

According to 45 CFR 164.502(g), there are three situations when the parent would **not** be the minor's personal representative under the Privacy Rule. These exceptions are:

1. When the minor is the one who consents to care and the consent of the parent is not required under State or other applicable law;
2. When the minor obtains care at the direction of a court or a person appointed by the court; and
3. When, and to the extent that, the parent agrees that the minor and the health care provider may have a confidential relationship.

However, even in these exceptional situations, the parent may have access to the medical records of the minor related to this treatment when State or other applicable law requires or permits such parental access. Parental access would be denied when State or other law prohibits such access. If State or other applicable law is silent on a parent's right of access in these cases, the licensed health care provider may exercise his or her professional judgment to the extent allowed by law to grant or deny parental access to the minor's medical information.

Finally, as is the case with respect to all personal representatives under the Privacy Rule, a provider may choose not to treat a parent as a personal representative when the provider reasonably believes, in his or her professional judgment, that the child has been or may be subjected to domestic violence, abuse or neglect, or that treating the parent as the child's personal representative could endanger the child.^{vi}

ⁱ W.S. §14-1-101 (Age of majority; emancipated minor; minor living apart; married minor; minor in military service)

ⁱⁱ Wyoming laws do not specifically address the ability of providers to provide pregnancy related care and contraception/family planning services to minors. Providers are encouraged to consult legal experts with questions.

ⁱⁱⁱ W.S. § 35-4-131 (Minor STD examination and treatment)

^{iv} W.S. § 6-2-309 (Minor sexual assault care)

^v W.S. § 9-4-1204 (Minor tobacco cessation services)

^{vi} <https://www.hhs.gov/hipaa/for-professionals/faq/227/can-i-access-medical-record-if-i-have-power-of-attorney/index.html>