

## CONSENT FOR CARE AND CONFIDENTIAL HEALTH INFORMATION

### Michigan Laws Related to Right of a Minor to Obtain Health Care Without Consent or Knowledge of Parents

Laws regarding consent to medical and surgical care by minors.	Is parental consent required?	Is parental access to the minor's information permitted?
<p><b>General Rule:</b> A minor is a person 17 years or younger Emancipation of Minors Act, MCL 722.1; Age of Majority Act, MCL 722.52.</p>	<b>Required</b>	<b>Yes</b>
<p><b>Emancipation/Emancipated Minor</b> Emancipation of Minors Act, MCL 722.1 –722.6</p> <p>1. An emancipation occurs by court order via a petition filed by a minor with the family division of circuit court.</p> <p>2. An emancipation also occurs by operation of law under any of the following circumstances:</p> <ul style="list-style-type: none"> <li>• When a minor is validly married.</li> <li>• When a person reaches the age of 18 years.</li> <li>• During the period when the minor is on active duty with the armed forces of the United States.</li> </ul>	<b>Not required</b>	<b>No</b>

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<p><b>Emancipation/Emancipated Minor Continued</b></p> <ul style="list-style-type: none"> <li>• For the purposes of consenting to routine, nonsurgical medical care or emergency medical treatment to a minor, when the minor is in the custody of a law enforcement agency and the minor's parent or guardian cannot be promptly located.</li> <li>• For the purposes of consenting to his or her own preventive health care or medical care including surgery, dental care, or mental health care, except vasectomies or any procedure related to reproduction, during the period when the minor is a prisoner committed to the jurisdiction of the department of corrections and is housed in a state correctional facility; or the period when the minor is a probationer residing in a special alternative incarceration unit.</li> </ul>		
<p><b>Unaccompanied Homeless Youth</b></p> <p>The McKinney-Vento Homeless Assistance Act, PL 100-77, 42 USC 11301 <i>et seq.</i> 42 U.S.C. §11432(g)(4), 42 U.S.C. §11432(g)(6)(A)(iii)</p> <p>Homeless children are to have access to education and other services for which they are eligible. To the extent services for dental, medical, and other such needs are available at school, children experiencing homelessness must have access to them.</p>	<p><b>Depends</b></p> <p>Generally, state law applies with regard to consent for dental or medical services. The McKinney-Vento Homeless Assistance Act recognizes consent for services available at school by "unaccompanied youth", which includes a youth not in the physical custody of a parent or guardian.</p>	<p><b>Not addressed.</b></p> <ul style="list-style-type: none"> <li>• Although McKinney-Vento does not address privacy rights of an unaccompanied minor, the Family Educational Rights and Privacy Act (FERPA) might allow access by parent or legal guardian. 20 U.S.C. § 1232g, 34 CFR Part 99.</li> </ul>

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<p><b>Abortion</b> The Parental Rights Restoration Act, MCL 722.901 – 722.909</p>	<p><b>Required</b></p> <ul style="list-style-type: none"> <li>• Written consent of one parent/legal guardian or a judicial waiver (court order) of parental consent from probate court.</li> <li>• Minors also must comply with the 24-hour waiting period prior to obtaining an abortion.</li> </ul>	<p><b>Yes, unless a judicial waiver.</b></p>
<p><b>Birth Control</b></p> <ul style="list-style-type: none"> <li>• There are no specific MI statutes on this issue; this is a Federal Constitutional “right of privacy.”</li> <li>• Title X Agencies: Family planning agencies funded under Title X of the Public Health Service Act must provide family planning and related services without regard to age or marital status. 42 CFR 59.5.</li> </ul>	<p><b>Provider discretion applies for providers not funded by Title X</b></p> <ul style="list-style-type: none"> <li>• There are no specific MI statutes on this issue; this is a Federal Constitutional “right of privacy.”</li> <li>• Generally, practitioners must be aware that there is no statutory authority or protection for their actions.</li> </ul> <p><b>Parental consent not required for services provided by Title X funded agencies. See section on “Title X agencies”.</b></p>	<p><b>Provider discretion applies for providers not funded by Title X</b></p> <ul style="list-style-type: none"> <li>• There are no specific MI statutes on this issue; this is a Federal Constitutional “right of privacy.”</li> <li>• Generally, practitioners must be aware that there is no statutory authority or protection for their actions.</li> </ul> <p><b>Access not permitted when services provided by Title X funded agencies. See section on “Title X agencies”.</b></p> <ul style="list-style-type: none"> <li>•</li> </ul>
<p><b>Emergency Care</b></p> <ul style="list-style-type: none"> <li>• Parent or guardian consent is required.</li> </ul>	<p><b>Required, other than life-threatening circumstances, immediate medical attention needed, and parents cannot be located.</b></p>	<p><b>Yes</b></p>

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<p><b>Emergency Care Continued</b></p> <ul style="list-style-type: none"> <li>Governor has power to issue executive orders and directives, which could allow prophylaxis or medical care to an unaccompanied minor during a declared emergency or disaster under Emergency Management Act, MCL 30.401 <i>et seq.</i></li> </ul>	<p><b>Potential for Governor to waive consent requirements that interfere with response to an emergency or disaster.</b></p>	
<p><b>Immunizations</b></p> <p>Michigan's communicable disease rules mandate immunizing children against specified diseases and infections. R 325.176</p>	<p><b>Generally required</b></p> <ul style="list-style-type: none"> <li>For exceptions, see sections on "<i>Title X agencies</i>" and on "<i>Prenatal and Pregnancy-Related Health Care</i>".</li> </ul>	<p><b>Generally, yes</b></p> <ul style="list-style-type: none"> <li>For exceptions, see sections on "<i>Title X agencies</i>" and on "<i>Prenatal and Pregnancy-Related Health Care</i>".</li> </ul>
<p><b>Mental Health – Inpatient Care</b> Mental Health Code, MCL 330.1498d</p> <ul style="list-style-type: none"> <li>Parents may admit for inpatient care.</li> <li>Minor may consent to limited inpatient care if 14 years or older.</li> </ul>	<p><b>Required</b></p> <ul style="list-style-type: none"> <li>A minor of any age may be hospitalized for mental health reasons if a parent/legal guardian or agency requests and the minor is found to be suitable for hospitalization.</li> <li>A minor of <u>14 years or older may request</u> and if found suitable be hospitalized.</li> <li>Suitability, in either case, shall not be based solely on one or more of the following: epilepsy; developmental delay; brief periods of intoxication; juvenile offenses; or sexual, religious or political activity.</li> </ul>	<p><b>Yes</b></p>

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<p><b>Mental Health – Outpatient Care</b> Mental Health Code, MCL 330.1707</p> <ul style="list-style-type: none"> <li>Minor may consent to limited outpatient care if 14 years of older.</li> </ul>	<p><b>Not required</b></p> <ul style="list-style-type: none"> <li>A minor age 14 or older may request and receive up to 12 outpatient sessions or four months of outpatient counseling.</li> </ul>	<p><b>Provider discretion applies.</b></p> <ul style="list-style-type: none"> <li>Information <u>may</u> be given to parent, guardian, or person in loco parentis for a <u>compelling</u> reason based on a substantial probability of harm to the minor or to another individual; mental health professional must notify minor of his/her intent to inform parent.</li> </ul>
<p><b>Prenatal and Pregnancy-Related Health Care</b> Public Health Code, MCL 333.9132</p> <ul style="list-style-type: none"> <li>Minor may consent to maintain life and preserve health of the minor or the minor's child or fetus.</li> </ul>	<p><b>Not required</b></p> <ul style="list-style-type: none"> <li>The consent of any other person, including the father of the baby or spouse, parent, guardian, or person in loco parentis, is not necessary to authorize health care to a minor or to a child of a minor.</li> <li>At the initial visit permission <u>must</u> be requested of the patient to contact her parents for any additional medical information that may be necessary or helpful.</li> <li>See section on “<i>Title X agencies</i>”, if services provided to minor by Title X funded agency.</li> </ul>	<p><b>Provider Discretion Applies</b></p> <ul style="list-style-type: none"> <li>Before providing care the patient must be informed that notification may take place.</li> <li>For medical reasons information <u>may</u> be given to or withheld from spouse, parent, guardian or person in loco parentis without consent of the minor and notwithstanding her express refusal to the providing of the information.</li> </ul> <p><b>Access not permitted when services provided to minor by Title X funded agency.</b> See section on “<i>Title X agencies</i>”.</p>
<p><b>The provision of health care for a child of the minor</b> Public Health Code, MCL 333.9132</p> <ul style="list-style-type: none"> <li>Minor may consent to maintain life and preserve health of the minor or the minor's child or fetus.</li> </ul>	<ul style="list-style-type: none"> <li>The <u>minor mother</u> shall consent to care for her child.</li> <li>The <u>consent of any other person</u>, including the father of the baby or spouse, parent, guardian, foster parent, is <u>not necessary</u> to authorize health care to a child of a minor.</li> </ul>	<p><b>Minor Mother</b></p>

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<p><b>Substance Abuse Services</b> Public Health Code, MCL 333.6121</p> <ul style="list-style-type: none"> <li>Minor may consent</li> </ul>	<p><b>Not required</b></p>	<p><b>Provider discretion applies.</b></p> <ul style="list-style-type: none"> <li>For <u>medical reasons</u> information as to the treatment given or needed, <u>may</u> be given to or withheld from the spouse, parent, guardian or person in loco parentis without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information.</li> </ul>
<p><b>Title X Agencies</b></p> <p>Title X of the Public Health Service Act funds agencies to provide services to promote the reproductive and general health care of the family planning client population. 42 USC § 300; 42 CFR Part 59. For information on required and related health services, go to <a href="http://Michigan.gov/familyplanning">Michigan.gov/familyplanning</a>.</p> <p>Funded agencies must provide services without regard to age or marital status. 42 CFR 59.5.</p>	<p><b>Not required</b></p> <ul style="list-style-type: none"> <li>Minors may obtain services from a Title X agency without parental consent.</li> <li>Title X Agencies: <u>To the extent practical</u>, funded agencies shall <u>encourage</u> minors to include their families, however, this is not mandatory in order to obtain services. 42 USC §300(a).</li> </ul>	<p><b>No</b></p> <ul style="list-style-type: none"> <li>Title X Agencies: Parental access to minor's information not permitted without the minor's documented consent, except as may be necessary to provide services to the patient or as required by law, with appropriate safeguards for confidentiality. 42 CFR 59.11.</li> </ul>
<p><b>Venereal Disease (STI) / HIV</b> Public Health Code, MCL 333.5127, MCL 333.5133, and MCL 722.623.</p> <ul style="list-style-type: none"> <li>Minor may consent to medical or surgical care for diagnoses and treatment of a venereal disease or HIV.</li> <li>MCL 333.5127 does not apply to</li> </ul>	<p><b>Not required for diagnosis or treatment. Also not required for medical care to prevent sexually transmitted infection or HIV (e.g. vaccine) if services provided by Title X funded agency.</b> See section on "<i>Title X agencies</i>".</p>	<p><b>Provider discretion applies as to the treatment given or needed.</b></p> <ul style="list-style-type: none"> <li>For <u>medical reasons</u> information as to the treatment given or needed, <u>may</u> be given to or withheld from the spouse, parent, guardian or person in loco parentis without consent of the minor and notwithstanding</li> </ul>

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<p>medical care to <i>prevent</i> a venereal disease, such as a vaccine.</p> <ul style="list-style-type: none"> <li>Reportable as reasonable cause to suspect <u>child abuse</u> if pregnancy or venereal disease found in child over <u>1 month but less than 12 years of age</u>.</li> </ul>		<p>the express refusal of the minor to the providing of the information.</p> <ul style="list-style-type: none"> <li>Access not permitted when services provided to minor by Title X funded agency. See section on "<i>Title X agencies</i>".</li> </ul>

### Other Michigan Laws Related to Right of a Minor to Obtain Health Care Without or Consent of Knowledge of Parents

<p><b>Reporting of Abuse or Neglect</b> Child Protection Act, MCL 722.622, MCL 722.623</p> <ul style="list-style-type: none"> <li>The following individuals are <u>required</u> to report suspected "<u>child abuse or neglect</u>" to Child Protective Services:</li> </ul> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">audiologist</td> <td style="width: 50%; border: none;">physician's assistant</td> </tr> <tr> <td style="border: none;">certified social worker</td> <td style="border: none;">psychologist</td> </tr> <tr> <td style="border: none;">dentist</td> <td style="border: none;">registered dental hygienist</td> </tr> <tr> <td style="border: none;">law enforcement officer</td> <td style="border: none;">regulated child care provider</td> </tr> <tr> <td style="border: none;">licensed professional counselor</td> <td style="border: none;">school counselor or teacher</td> </tr> <tr> <td style="border: none;">marriage and family therapist</td> <td style="border: none;">school administrator</td> </tr> <tr> <td style="border: none;">medical examiner</td> <td style="border: none;">social worker</td> </tr> <tr> <td style="border: none;">member of the clergy</td> <td style="border: none;">social worker technician</td> </tr> <tr> <td style="border: none;">nurse</td> <td></td> </tr> <tr> <td style="border: none;">person licensed to provide emergency medical care</td> <td></td> </tr> <tr> <td style="border: none;">physician</td> <td></td> </tr> </table>	audiologist	physician's assistant	certified social worker	psychologist	dentist	registered dental hygienist	law enforcement officer	regulated child care provider	licensed professional counselor	school counselor or teacher	marriage and family therapist	school administrator	medical examiner	social worker	member of the clergy	social worker technician	nurse		person licensed to provide emergency medical care		physician		<ul style="list-style-type: none"> <li>"Child abuse" means harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, <u>by a parent, a legal guardian, or any other person responsible for the child's health or welfare or by a teacher, a teacher's aide, or a member of the clergy.</u></li> <li>"Child neglect" means harm or threatened harm to a child's health or welfare <u>by a parent, legal guardian, or any other person responsible for the child's health or welfare</u> that occurs through either of the following: <ul style="list-style-type: none"> <li>(i) Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care.</li> <li>(ii) Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.</li> </ul> </li> <li>For reporting purposes, pregnancy of a child less than 12 years</li> </ul>
audiologist	physician's assistant																						
certified social worker	psychologist																						
dentist	registered dental hygienist																						
law enforcement officer	regulated child care provider																						
licensed professional counselor	school counselor or teacher																						
marriage and family therapist	school administrator																						
medical examiner	social worker																						
member of the clergy	social worker technician																						
nurse																							
person licensed to provide emergency medical care																							
physician																							

<b>Reporting of Abuse or Neglect Continued</b>	of age or the presence of a venereal disease in a child who is over 1 month of age but less than 12 years of age <u>is reasonable cause to suspect child abuse and neglect have occurred.</u>
<b>Medical Records Access Act, MCL 333.26261-MCL 333.26271</b>  <ul style="list-style-type: none"> <li>Provides for and regulates access to and disclosure of medical records.</li> </ul>	<ul style="list-style-type: none"> <li>Under this act, a minor’s parent, guardian, or person acting in loco parentis has the right to review and obtain a copy of the minor’s medical record, <u>unless the minor lawfully obtained health care without the consent or notification of a parent, guardian, or other person acting in loco parentis, in which case the minor has the exclusive right to exercise the rights of a patient under this act with respect to those medical records relating to that care.</u></li> </ul>

**Availability of Laws on the Internet:**

Michigan Statutes: [www.legislature.mi.gov](http://www.legislature.mi.gov)

Federal Statutes <http://uscode.house.gov/search/criteria.shtml>

Federal Regulations: <http://ecfr.gpoacss.gov>

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OLA thanks the Henry Ford Health System for providing the original matrix that served as a model for this matrix.

**Disclaimer:**

**This document is for informational purposes only. This document represents OLA’s understanding of various laws, and is not intended as a legal position from the State of Michigan or the Michigan Department of Community Health. For legal advice, readers should consult with their own counsel. While every attempt has been made to assure the information presented is accurate as of May 2009, laws do change, and readers will need to confirm accuracy of various laws cited.**