



Responsibilities for Treatment of Minors within the Family Planning Program and Healthy Texas Women Program

In accordance with the [Texas Family Code](#), Healthy Texas Women (HTW) and Family Planning Program (FPP) services must be delivered in a manner that complies with parental consent requirements for minors. In Texas, the legal definition of a minor is a person under 18 years of age who is not, and has not been, married or who has not had the disabilities of minority removed for general purposes (that is, emancipated).¹

Purpose

The purpose of this document is to provide guidance on policies and procedures specific to the provision of services to minor clients under the HTW program and FPP. Providers for these programs must also be aware of and comply with all other program regulations and guidelines, which can be found in the [Texas Medicaid Provider Procedures Manual](#) for HTW and the [Family Planning Program Policy Manual](#) for FPP.

HTW and FPP providers and their parent organizations may serve clients who are funded through sources outside of the Health and Human Services Commission (HHSC). When requirements differ, policies and procedures concerning services for programs administered by HHSC must be distinguished from those governing family planning services provided through other contracts or funding sources, such as Title X.

Minors and Confidentiality

Except as permitted by law, a provider is legally required to maintain the confidentiality of care provided to a minor. The provider must inform the minor client of their right to privacy and confidentiality, as well as its limitations.

¹ Texas Family Code, Title 5, Subtitle A. Chapter 101:
<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.101.htm>

Confidential care does not apply when the law requires parental notification or consent, or when the law requires the provider to report health information, such as in cases of contagious disease or abuse. Privacy is defined as the ability of a person to maintain information in a protected way. Confidentiality in health care is the obligation of the health care provider not to disclose protected information. While confidentiality is implicit in maintaining a person's privacy, confidentiality between provider and a person is not an absolute right.

The HIPAA privacy rule requires a covered entity to treat a "personal representative" the same as the person with respect to uses and disclosures of the person's protected health information. In most cases, parents are the personal representatives for their minor children, and they can exercise individual rights, such as access to medical records, on behalf of their minor children. (See [Title 45 of the Code of Federal Regulations, Part 164](#)).

Consent for Services to Minors

A parent or legal guardian must apply on behalf of a minor for HTW or FPP services. Minors are required to obtain consent from a parent, managing conservator, or court appointed guardian before receiving services as required by [Texas Family Code, Chapter 32](#) and may consent to their own services only as authorized by [Chapter 32](#). Proof of consent must be included in the minor client's medical record. Health care providers should consult a qualified attorney to determine the appropriateness of the consent forms used by their health care agency.

The general consent form must explain the types of services provided and how client information may be shared with other entities for reimbursement or reporting purposes. If three years or more elapse during which a client does not receive services, a new general consent must be signed before services are resumed.

Per the [Texas Family Code, Chapter 32, Section 32.003](#), a child may consent to treatment by a licensed physician if the child:

1. is on active duty with the armed services of the United States of America;
2. is:
 - a. 16 years of age or older and resides separate and apart from the child's parents, managing conservator, or guardian, with or without the consent of the parents, managing conservator, or guardian and regardless of the duration of the residence; and

- b. managing the child's own financial affairs, regardless of the source of the income;
3. consents to the diagnosis and treatment of an infectious, contagious, or communicable disease that is required by law or rule to be reported by the licensed physician or dentist to a local health officer or the Texas Department of Health, including all diseases within the scope of [Section 81.041, Health and Safety Code](#);
4. is unmarried and pregnant and consents to hospital, medical, or surgical treatment, other than abortion, related to the pregnancy;
5. consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use;
6. is unmarried, is the parent of a child, and has actual custody of his or her child and consents to medical, dental, psychological, or surgical treatment for the child; or
7. is serving a term of confinement in a facility operated by or under contract with the Texas Department of Criminal Justice, unless the treatment would constitute a prohibited practice under [Section 164.052\(a\)\(19\), Occupations Code](#).

Parental consent is **not** required for a medical provider to provide pregnancy testing, HIV testing, STD testing, or treatment for an STD to a minor. However, for contractors to bill for such services in HTW and FPP, the client must be enrolled in the relevant program.

Prompt Services for Minors

Minors must be provided family planning counseling and medical services as soon as possible after the request, and every effort must be made to provide services the same day or to make an appointment within two weeks of the request. Appointment schedules should be flexible enough to accommodate access for minors. Clinic and reception room wait times should not be a barrier to care.

Counseling for minors seeking family planning services must be provided with parental consent and must include information on use and effectiveness of all medically approved contraceptive methods, including abstinence. Services for counseling on and dispensing of emergency contraceptives are not provided through FPP or HTW.