

# **Minors' Consent for Health Care Services in New Mexico**

## ***As addressed in the New Mexico Statutes Annotated (NMSA)***

*Under HIPAA (45 CFR § 164.502(g)), a parent/guardian generally has access to their child's medical records. However, an exception is made if the minor consents to care that does not require parental/guardian consent under state law. Most providers take the position that if the minor can consent for the service, then they have the right to confidentiality and control access to and disclosure of medical records for those services (as below).*

### **§ 24-1-9 NMSA 1978 ... Sexually transmitted disease**

Any person regardless of age has the capacity to consent to an examination and treatment by a licensed physician for any sexually transmitted disease. *Test results for sexually transmitted diseases may be released to the subject's legally authorized representative, guardian or legal custodian upon request (NMSA § 24-1-9.4), but it is not required.*

### **§ 24-1-13.1 NMSA 1978 ... Pregnancy**

A health care provider shall have the authority, within the limits of his license, to provide prenatal, delivery and postnatal care to a female minor. A minor is presumed to have the capacity to consent to prenatal, delivery and postnatal care by a licensed health care provider.

### **§ 24-8-5 NMSA 1978 ... Contraception**

Neither the state... nor any health facility furnishing family planning services shall subject any person to any standard or requirement as a prerequisite for receipt of any requested family planning service...[exceptions do not address age of client].

### **§24-10-2 NMSA 1978 ... Emergency Conditions**

... in cases of emergency in which a minor is in need of immediate hospitalization, medical attention or surgery and the parents of the minor cannot be located for the purpose of consenting...after reasonable efforts have been made..., consent can be given by any person standing in locus parentis to the minor. But see also §24-7A-6.2 NMSA 1978 below

### **§32A-6A-14, 15 NMSA 1978 ... Mental Health (including substance abuse) [Rev. 2007]**

A child under the age of fourteen years may consent to initial assessment and early intervention services, limited to verbal therapy, not to exceed a two-week period. After the initial period, parental consent is required.

A child fourteen years of age or older has the right to consent to and receive individual psychotherapy, group psychotherapy, guidance counseling or other forms of verbal therapy and information regarding such counseling is confidential. A child fourteen years of age or older has the right to consent to psychotropic medication with notice to the parent/legal guardian. A child fourteen years of age or older has the exclusive right to consent to disclosure of their mental health records.

### **§24-7A-6.2 NMSA 1978 ... Consent for Certain Minors Fourteen Years or Older (homeless youth or parent of a child)**

An unemancipated minor fourteen years of age or older has the right to consent to and receive medically necessary health care - clinical and rehabilitative, physical, mental, or behavioral health services that are essential to prevent, diagnose or treat medical conditions. The minor must be living apart from the minor's parents/ legal guardian, or the parent of child. The healthcare must be provided within professionally accepted standards of practice and national guidelines.