

Minors Rights and HIPAA



Under HIPAA, minors do not have full legal rights and are represented by a parent or guardian in the law until they reach the age of majority. HIPAA gives parents right to full disclosure to their child's medical information in most cases and to make medical decisions for the minor on their behalf. At first glance, this would seem to go against the strong privacy rules of HIPAA, but as minors are not seen as competent to manage their own medical care under the law, parents act as their representative in. However, there are also many situations where a parent or guardian does not have a legal right to the medical information of a minor.

A parent has the option to waive their right to their child's medical care when the child and their care provider have a consented private relationship. This often occurs when a child is receiving psychotherapy, and the therapist and parent agree that what is said in therapy sessions will be confidential unless the child in question says something that will cause harm to them or others. Additionally, there are certain types of medical care minors can consent to themselves without a parent. The government also holds the right to both order medical care for a minor.

Types of medical care that minors can seek alone include treatment for mental health issues, pregnancy, sexual activity, and substance abuse. It is important to note these types of treatment normally only would be sought after by minors close to the age of majority, and state law guarantees these sorts of rights to minors of a certain age (generally about 12 or 13). Many minors in these situations do not seek proper and needed medical attention out of fear of their parents might find out. HIPAA functions so that they can have privacy for certain types of medical treatment so they will not avoid the treatment they need to be healthy out of fear of their parent's judgment or interference.

A common problem with situations where minors of an age can give consent to types of medical care is that the caregivers will disclose private medical information to the minor's parents. This is illegal without the express permission of the minor. Medical laws are put in place to protect the minor and ensure that they feel comfortable seeking treatment. Regardless of what the caregiver may think, it is the right of the minor to decide how the medical information will be communicated to their parents. This part of HIPAA is in place, as stated, because these minors are close to the age of majority and able to make mature decisions and the fact that the government does not want to prevent older minors from getting proper treatment.

Generally, the minimum age to be able to consent to certain medical treatment is 12 or 13. The rules vary from state to state, but it is important to note these rights are restricted. As the minor gets closer to the age of majority, the law gives them more medical rights. For example, in the state of Illinois, minors over the age of 12 has the right for up to five 45-minute visits, and their parents do not have the right to know about them without the patient's consent. Yet, minors over the age of 16 gain the right to admit themselves voluntarily for psychiatric treatment without parental consent. Minors over 12 have, as show, some rights under HIPAA regarding psychiatric treatment, but they do not have the same level of rights to make their own decisions as minors over 16 without parental consent. Minors who are 16 are only two years from being an adult in the eyes of the law, and this means the law recognizes them as being more competent to make bigger decisions in more mature situations.

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