

Implications of parental consent for clinician-provided contraception for minors in Texas

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Nearly one in three (30%) Texas high school students between 16 and 17 years of age are sexually active.¹ However, unlike many other states,² Texas does not permit unemancipated minors (i.e., those under 18 years old who are not legally separated from their guardian) to obtain comprehensive sexual and reproductive healthcare services on their own, including clinician-provided contraception. In most cases, minors must obtain parental consent to receive contraceptive services. If minors are able to consent for contraceptive care, their confidentiality is not guaranteed.

In this brief, we discuss the importance of confidential sexual and reproductive healthcare services for minors and some of the challenges that Texas minors have experienced trying to proactively obtain care. We also describe parental consent requirements and the confidentiality rules in different programs that cover reproductive health services in Texas and the ways recent policy changes may exacerbate minors' barriers to care.

ACCESS TO CONFIDENTIAL CONTRACEPTION IS IMPORTANT FOR MINORS' HEALTH

Professional medical associations, including the Society of Adolescent Health and Medicine and the American Academy of Pediatrics, recommend that all minors receive confidential care because it increases open communication about sensitive health matters and enables minors to access information and services that may impact their future health.³⁻⁶ Confidential care can help minors reduce their risk of experiencing an unwanted pregnancy or contracting a sexually transmitted infection (STI), as well as support their overall development as they begin to take responsibility for their own reproductive healthcare.^{8,9}

Minors who report barriers to confidential sexual and reproductive healthcare, such as mandated parental consent for clinician-provided contraception, are more likely than those who do not report these barriers to stop seeking care and use less effective contraceptive methods or no method; they are also more likely to experience higher pregnancy and birth rates.⁷⁻⁹ This is especially relevant in Texas, which has the nation's ninth highest teen birth rate and highest repeat birth rate.^{10,11}

Professional associations also recommend that minors obtain confidential care at low or no cost.³ This further reduces barriers for groups who are more likely to experience adverse reproductive health outcomes, such as those living on low incomes and young, Black and Latina individuals.^{3-5,12}

PARENTAL CONSENT REQUIREMENTS CREATE BARRIERS FOR TEXAS MINORS SEEKING EFFECTIVE CONTRACEPTION

In a 2022 study, we found that parental consent was a key barrier for sexually active minors seeking effective contraceptive methods, and this limited their ability to exercise autonomy over their reproductive health.¹³ Most of the 28 minors we interviewed used condoms or withdrawal during sex, and some also used emergency contraception because these methods were accessible or affordable. However, all minors in our study reported wanting to use a more effective contraceptive method. Many minors we interviewed tried initially to involve a parent. However, because they were unable to get their parent's support, they decided to seek contraception on their own.



Not all minors are able to involve a parent in contraceptive decision making

Many of the minors we interviewed reported that their parents had never talked to them about contraception and that they had to initiate these conversations themselves. When they did, minors often felt that their parents tried to disengage from conversations or reproached them for bringing up the topic. This signaled to many participants that they could not involve their parents in their contraceptive care. Participants believed their parents avoided these conversations because they were uncomfortable talking about sex and lacked necessary contraceptive knowledge. In fact, one in four participants felt unable to involve their parents in their contraceptive care because their parents were not educated on contraception.

OLIVIA'S STORY

Olivia, a 17-year-old junior in high school who identified as Indian, relied on withdrawal and emergency contraception when she became sexually active with her new boyfriend. In the past month Olivia had purchased emergency contraception twice when her boyfriend was unable to withdraw (pull out) in time, but relying on emergency contraception was making Olivia anxious. Because she did not think she could handle pregnancy at her age, she was looking for a more effective contraceptive method.

Olivia's previous attempts to talk with her mother about contraception had not been successful. Her mother was strongly opposed to all hormonal methods, which Olivia felt was related to a lack of accurate information. Because Olivia did not feel comfortable involving her mother in her contraceptive care, she wanted to make sure any appointment she had would be confidential.

"I brought up [contraception] and my mom was shutting it down saying how it was unnatural, so that is why I cannot go to her about any of these questions... When she started describing [contraception], it was a lot of misinformation... She kept bringing up God and how [contraception] disrupts your body and ruins it... I don't want my parents to find out, and I don't think I can handle pregnancy at this age."

Confidential access to contraception is important even for minors who have support from a parent or guardian

Several minors in our study reported that even though their parents were receptive to their contraceptive use, support was sometimes conditional on factors such as choice of method or partner. There was often discomfort on both sides around talking about contraception, and sometimes parents did not take the minors' requests seriously enough to take them to an appointment.

ASHLEY'S STORY

Ashley, a 15-year-old freshman in high school who identified as Black, was living with her grandmother. When Ashley was younger, her grandmother told her that she needed to start using oral contraceptives as soon as she started having sex. However, she did not think her grandmother would be supportive of her current sexual relationship with her boyfriend, who was White. Because of this conflict, she did not feel like she could have open conversations with her grandmother about using contraception. She relied on condoms during sex but felt it would be best to use more effective contraception because she was not ready to have a child.

"I just don't feel comfortable talking to [my grandmother] about [contraception] at all, because she just she likes to play the 21-questions game. It really irritates me, and she just judges everything I say... I think that birth control should be accessible to everyone regardless of their age. As long as you know you are trying to protect yourself, there is no need for the parents to be involved, especially if you have a doctor who is looking over the whole thing."



TEXAS MINORS HAVE LIMITED OPTIONS FOR CONFIDENTIAL CONTRACEPTIVE CARE WITHOUT PARENTAL CONSENT

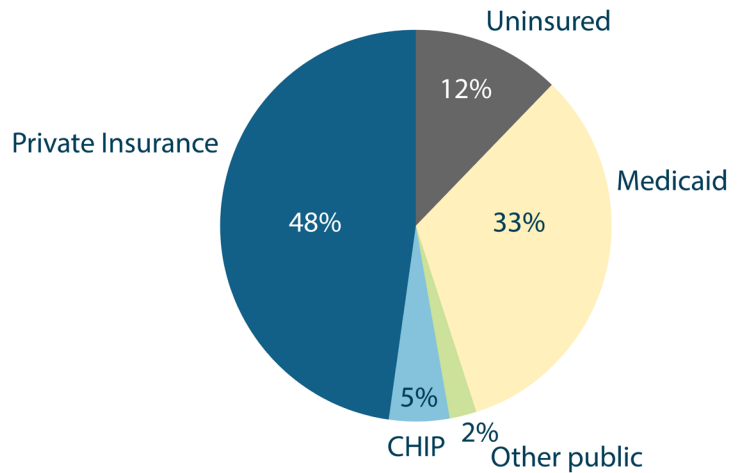
In Texas, most minors have health insurance through private plans (48%) or Medicaid (33%).¹⁴ The Children's Health Insurance Program (CHIP) covers 410,000 (5%) of minors in Texas, but this program does not cover contraception in most cases.^{15,16}

Approximately 12% of minors in Texas are uninsured, the highest rate of uninsured minors nationwide.¹⁴ Minors who are uninsured and living on low incomes may be able to obtain reproductive healthcare if they are enrolled in the Healthy Texas Women (HTW) program or by visiting health centers that receive funding from the state-funded Family Planning Program (FPP). According to recent reports, nearly 1500 minors received services through FPP in fiscal year 2021, but few obtained care through HTW.^{16,18}

All Texas minors can consent to pregnancy testing and STI testing and treatment without involving a parent.¹⁹ However, parental consent is required for many minors obtaining clinician-provided contraception, and confidentiality is not always guaranteed even when they can consent to their own care (Table).

Regardless of insurance coverage or income, Texas minors have historically been able to obtain confidential sexual and reproductive health services without parental consent at health centers that receive federal Title X funding. However, a federal district court judge in Texas ruled in December 2022 that Title X violates a parent's right to control the upbringing of their children.²⁰ Following the decision, Title X health centers began requiring Texas minors to obtain parental consent for contraceptive services.²¹

Texas minors' insurance status¹⁴⁻¹⁶



If minors have lower incomes, they may use the state Family Planning Program and Healthy Texas Women with parental consent. Minors can also access contraception through the Title X program, but parental consent is currently required in Texas.

Title X and confidential care

The Title X program, which was created in 1970, guarantees confidential services to all clients. Although health centers that receive Title X funds encourage family participation in reproductive health decision-making, they are not allowed to require parental consent or notify parents that a minor has requested or received services.²² In a pointed effort to restrict minors' access to confidential contraception, a Texas father filed a lawsuit claiming that the Title X guidelines around parental consent violate his ability to control the upbringing of his children. In *Deanda v. Becerra*, federal district court judge Matthew Kacsmayk ruled on December 20, 2022 that Title X violates parents' rights and state and federal law, meaning minors can no longer obtain contraception without parental consent. This ruling is only in effect in Texas. Minors in all other states can still obtain confidential contraceptive care at Title X health centers.



Healthcare providers at Texas' publicly funded family planning health centers have reported that frequent changes to programs and variability in program guidelines about parental consent requirements and confidentiality guarantees make it difficult for them to provide patient-centered care for minors and their families.²³

Texas family planning providers' reactions to previous changes affecting parental consent requirements in publicly funded family planning programs

"It was horrible [after we had to obtain parental consent]. Nobody could remember anything. We kept meeting in the hall saying: 'Okay now what are we going to do here?' I mean it just got awful. And the teens were furious, and the mothers were furious that they had to come in with their teens."

"We have a lot of sexually active teens, and they're just not coming in. And some of them - a very [small] percentage of them - are coming in with their parents. But, not being able to see them without parental consent has been really difficult."

"I sure would like to see them do that [program] without parental consent because we would see a lot more teenagers and stop a lot more unwanted pregnancies than if we were required to get the parental consent."

CONCLUSIONS AND IMPLICATIONS

Unemancipated minors in Texas are required to obtain parental consent for clinician-provided contraception despite being able to consent to many other sexual and reproductive health services. Requiring parental consent for contraception contradicts guidance from professional medical associations³⁻⁶ and creates unnecessary barriers that prevent minors, particularly those who already face disadvantages, from obtaining the most effective methods of contraception.

Although parents do have legal responsibility for their children's medical care, their authority is not absolute.²⁴ Federal and state laws, as well as numerous court decisions, recognize minors' right to privacy and confidentiality around their healthcare, including obtaining contraception without parental consent, because disclosure of minors' reproductive health decisions could place them in dangerous situations.²⁵ It is important to note that healthcare providers have a legal responsibility to protect minors when there is a suspicion of abuse or neglect, ensuring the well-being of minors even in the absence of parental involvement.^{26,27}

Removing parental consent requirements for contraception would ensure that Texas minors can get the services they need to reduce adverse reproductive health outcomes and support a healthy transition to adulthood.

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Table: Minors' contraceptive coverage options in Texas

Program	Eligibility criteria	Contraception coverage for minors	Parental consent requirements	Contraception confidentiality guarantees
Private Insurance	Enrolled parent/legal guardian; can stay on insurance up to age 26	Yes, if plan is compliant with the Affordable Care Act's contraceptive coverage mandate	Yes, minors must have parental consent to obtain contraception	No
Children's Medicaid	≤124% FPL (\$30,708 annually for a family of 3) US citizen or legal resident ≥5 years	Yes	No, minors can consent to contraceptive care	No, parents may be informed of minors' contraceptive use through insurance billing procedures
Children's Health Insurance Program (CHIP)	≤201% FPL (\$44,140 annually for a family of 3) US citizen or legal resident ≥5 years	No, Texas is one of only two states that does not offer contraception coverage through CHIP	N/A	N/A
Family Planning Program (FPP)	≤250% FPL (\$54,900 a year for a family of 3) Eligible regardless of immigration status	Yes	Yes, minors must have parental consent to obtain contraception	No
Healthy Texas Women (HTW)	People who are not pregnant ≤200% FPL (\$43,920 a year for a family of 3) US citizen or legal resident ≥5 years	Yes	Yes, minors must have parental consent to obtain contraception	No
Title X	Eligible regardless of income or immigration status	Yes	Yes, minors must have parental consent to obtain contraception due to recent ruling in <i>Deanda v. Becerra</i> .	No, confidentiality is guaranteed in every state other than Texas.



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