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Changes to Idaho's Minor Consent Law

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Idaho has amended its restrictive minor consent law effective March 31, 2026.[1] A redline showing the changes is available at https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2026/legislation/H0860E1.pdf. The amendments address many of the concerns raised by the original act, but problems and questions concerning its application remain.

1. General Rule: Parental Consent Still Required. As amended, Idaho Code § 32-1015 states,

> Except as otherwise provided by this section or court order, an individual, health care provider, or governmental entity shall not furnish a health care service or solicit to furnish a health care service to a minor child without obtaining the informed consent of the minor child's parent.[2]

a. Minors and Parents. "Minor child" is defined as "an individual under eighteen (18) years of age but does not include an individual who is an emancipated minor."[3] "Parent" is defined as "a biological parent of a child, an adoptive parent of a child, or an individual who has been granted exclusive right and authority over the welfare of a child under state law."[4] As amended, only "[p]arents who have legal custody of any minor child have the fundamental right and duty to make decisions concerning the furnishing of health care services to the minor child."[5] This seems to suggest that noncustodial parents do **not** have the right and perhaps the authority to consent for their minor children, which interpretation would seem to conflict with other statutes such as I.C. § 39-4504(1)(e), which simply gives "a parent" the right to consent for minors, and I.C. § 32-717A, which gives noncustodial parents the right to access a minor's health records. At the very least, the amendment creates uncertainty in situations involving noncustodial parents.

b. Health Care Services. Subject to certain new exceptions described below, the statute generally applies to any "health care service," which is defined broadly as "a service for the diagnosis, screening, examination, prevention, treatment, cure, care, or relief of any physical or mental health condition, illness, injury, defect, or disease."[6]

Unfortunately, the recent amendments do not resolve the conflict with

several other Idaho laws that would allow minors to consent to their own care for certain types of services. The new bill does amend I.C. §§ 66-318 and 66-320 to confirm that minors may not be admitted as a voluntary patient for mental health care or be released from a facility to which the patient was admitted without the consent of the parent. It also tweaks Idaho law to clarify parental involvement when involuntary treatment is ordered by a court under I.C. § 16-2424. However, the amendments do not address other long-established Idaho laws or regulations that purportedly allow minors to consent to care relating to contraceptives;[7] treatment for infectious, contagious, or communicable diseases;[8] inpatient treatment for drug or alcohol abuse;[9] and blood donations.[10] The Statement of Purpose to the original bill enacting § 32-1015 stated that "the Act is intended to supersede any current provisions of Idaho law that may otherwise conflict with the Act,"[11] and there does not appear to be anything in the recent amendments that would repeal or revise that statement. To the contrary, amended § 32-1015(8) continues to state, "This section shall be construed in favor of a broad protection of parents' fundamental right to make decisions concerning the furnishing of health care services to minor children." Arguably, the fact that the legislature chose to amend §§ 66-318 and 66-320 to resolve the conflict while leaving other minor consent laws on the books suggests that the legislature intended the other laws to apply despite the conflicting language in § 32-1015, but it is not clear how that argument would play out. In the meantime, unless and until we receive additional authoritative guidance, providers who rely on other state minor consent laws that conflict with § 32-1015 do so at their peril.

Whether the new law preempts contrary federal laws depends on an analysis of the federal law, including but not limited to EMTALA, Title X programs offering family planning services, and substance use disorder programs.[12]

c. Affected Entities. The statute applies broadly to any "individual, health care provider, or governmental entity" furnishing or soliciting to furnish a health care service.[13] "Health care provider" means

> (i) A physician, health care practitioner, or other individual licensed, accredited, or certified to perform health care services or provide counseling consistent with state law, or any agent or third-party representative thereof; or
>
> (ii) A health care facility or its agent.[14]

Importantly, the statute is not limited to those providers with a direct treatment relationship; it apparently extends to providers with an indirect treatment relationship, including but not limited to those rendering laboratory, pathology, or radiology services. Such providers may need to rely on consents obtained from providers who have a direct relationship with the patient and/or parent. While

certain provisions are specific to health care providers, the statute still applies generally to anyone—including non-health care providers—who undertakes to furnish health care services to unemancipated minors unless one of the following exceptions applies.

2. Exceptions to Parental Consent Requirement. As amended, § 32-1015 reconfirms and adds several exceptions to the parental consent requirement.

a. Emancipated Minors. The statute still only applies to unemancipated minors; it does not apply to emancipated minors.[15] The statute does not define "emancipated minors," but based on other statutes and case law, minors will likely be deemed to be emancipated and competent to consent to their own health care if a court has entered an order that declares the minor to be emancipated;[16] the minor is married or has been married;[17] the minor is serving in the active military;[18] or the minor has rejected the parent-child relationship, is living on their own, and is self-supporting.[19] Contrary to common belief, pregnancy is not an emancipating event under Idaho law.[20]

b. Non-Emergency First Aid. In a very welcome change, the statute now allows any individual to provide reasonably needed non-emergency first-aid:

> No individual acting reasonably under the circumstances shall be found in violation of this subsection by furnishing nonemergency first aid services and care to a minor child appearing or represented to be sick or injured. Such services and care may include dressing minor wounds, applying topical agents, providing fluids or ice, and performing checks to identify minor illnesses.[21]

This change was intended to protect the myriad circumstances in which a family member, teacher, coach, babysitter or other nonprofessional takes reasonable steps to help a minor child in apparent need.

Similarly, in the case of health care providers, the statute now states that health care providers may furnish care without parental consent if "[t]he service is limited to nonemergency first aid services and care to a minor appearing or represented to be sick or injured."[22] The statute does not define "nonemergency first aid services and care" so providers should be wary about pushing the exception too far. It likely would not apply to most scheduled visits, situations in which parents are readily available to give consent, and must be contrasted with emergency care specifically addressed in the statute.

c. Emergency Care. The amended statute loosens the exception for emergency care by health care providers. As amended, health care

providers may render care to a minor if the provider reasonably determines that:

> a medical emergency exists and:
>
> (i) Furnishing the health care service is necessary in order to prevent death or address a serious bodily harm to the minor child; or
>
> (ii) After a reasonably diligent effort, the health care provider cannot locate or contact a parent of the minor child and the health care service is furnished to prevent loss of life or serious physical illness or injury to the minor child.[23]

This is consistent with other Idaho statutes that allow providers to render care in emergency situations when a parent or personal representative is not available.[24] CMS Interpretive Guidelines to EMTALA also allow minors to consent to their own emergency medical screening examination and, if an emergency condition is detected, stabilizing treatment by hospitals, at least until parents or guardians may be contacted.[25]

d. Good Samaritans and Volunteers. The amended statute confirms that it "shall not be construed to invalidate any protections or immunities granted to any individual administering first aid services and care pursuant to any provision of Idaho Code."[26] Although the scope of this provision is not clear, it may extend protections, *e.g.*, to good Samaritans, *i.e.*, those who render first aid or emergency medical attention to any person at the scene of an accident or emergency in good faith and without compensation;[27] volunteer ambulance attendants who render first aid or emergency medical attention as part of their volunteer service;[28] and perhaps hospital personnel who render first aid or emergency care to persons under limited circumstances.[29]

e. Crime Against the Minor. Section 32-1015 now allows a health care provider to render care if the "minor child is seeking health care or medical treatment that is directly related to an allegation of a crime of physical violence against the minor child or to collect evidence related to such crime when the collection of such evidence is time-sensitive,"[30] such as SANE exams or similar situations.

f. Pregnancy-Related Care. The statute allows health care providers to furnish care "for the purpose of detecting or diagnosing pregnancy or providing prenatal or peripartum care."[31] Arguably, this creates a relatively broad exception for pregnant minors—likely broader than Idaho law before the minor statute was enacted. Not surprising, however, it does not include "abortion or performing or facilitating an abortion" as defined in I.C. § 18-8702.[32]

g. Newborns and Illegal Drugs. Section 32-1015 now states,

> Nothing in this section or any other provision of Idaho Code shall prevent a health care provider from screening and treating a newborn infant for illegal drugs or substances if a reasonable suspicion suggests their presence, provided that the results of the test or the fact of treatment may not be used against the parent in any criminal proceeding.[33]

This provision also appears to expand a provider's right to treat beyond that which existed before the minor consent law was enacted.

h. Suicide Hotline. The statute allows the 988 Idaho crises and suicide hotline to provide immediate crisis and suicide prevention services. The hotline may provide certain follow up services as specified in the statute to ensure the minor's safety.[34]

i. Court-Ordered Treatment. Section 32-1015 contemplates that a court may order a minor's treatment.[35] In addition to other situations in which a court order may be appropriate, I.C. § 16-1627 establishes a process whereby a physician may seek a court order authorizing needed care if “the life of the child would be greatly endangered without certain treatment.”

3. Parental Blanket Consent. Although the law generally requires informed consent from a parent, § 32-1015 allows health care providers to render care “without obtaining the informed consent [if] a parent of the minor child has given blanket consent authorizing the care.”[36] The amended statute adds certain requirements for an effective blanket consent form:

> 1. Such consent must be in writing on a form provided by the health care provider. The form shall be titled "Blanket Consent Form for Health Care Services for Minor." The title must be in bold, 30-point font. On the first page, the form shall state in bold, 24-point font: "Providing blanket consent is optional and may, instead, be given on a case-by-case basis. Blanket consent may be withdrawn by a parent at any time."
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> 2. No parent shall be required or pressured to sign a blanket consent form as a condition of the minor child enrolling in public school or participating in any school-sponsored activity; and
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> 3. A parent may revoke consent to

> furnish any further health care service to a minor child at any time.[37]

If the blanket consent is written and signed by the parent or guardian, however, the blanket consent is valid even if it does not meet the three requirements for provider-issued blanket consent forms.[38]

Aside from these requirements, the statute remains silent as to the scope or substantive content of an effective blanket consent: on the one hand, the statute indicates that the "blanket consent" must relate to "the health care service" furnished, which suggests some degree of specificity; on the other hand, requiring a specific consent for each type of treatment would seem to negate the concept of a "blanket" consent. Importantly, § 32-1015 states that if the health care provider obtains a blanket consent meeting the minimal statutory requirements, the health care provider "may authorize or furnish a health care service without obtaining the informed consent of the minor child's parent…."[39] This is a significant departure from long established Idaho law requiring that consent be sufficiently informed to be effective, *i.e.*, that the patient or surrogate decision-maker "is sufficiently aware of pertinent facts respecting the need for, the nature of, and the significant risks ordinarily attendant upon such a person receiving such services…."[40] Given the rather vague terms of the amended statute, providers should be careful when relying on a blanket consent, especially if the care to be rendered is significant, unexpected or non-routine, expensive, or controversial. In such cases, a provider may be safer obtaining sufficiently informed consent from the parent for the particular episode of care. For more discussion of blanket consents, see our article at https://www.hollandhart.com/blanket-consents-under-idahos-new-minor-consent-law.

4. Child Neglect. Section 32-1015 confirms that it "does not make legal and in no way condones any abuse, abandonment, or neglect, including any act or omission described in [I.C. § 16-1602]."[41] Providers are still required to report situations in which parents fail or refuse to provide or consent to medical or other care necessary for the child's well-being.[42]

5. Parental Access to Records. Under the amended statute, parents still generally have a right to access their minor child's health information,[43] which is defined broadly as

> information or data, collected or recorded in any form or medium, and personal facts of information about events or relationships that relates to:
>
> (i) The past, present, or future physical, mental, or behavioral health or condition of an individual or member of the individual's family;
>
> (ii) The provision of health care services to an individual; or

> (iii) Payment for the provision of health care services to an individual.[44]

Providers may deny parental access if such access "is prohibited by a court order"[45] or if "[t]he parent is a subject of an investigation related to a crime committed against the child, and a law enforcement officer requests that the information not be released to the parent."[46] In addition, the amended statute now allows providers to deny access if "[t]he health information is a record that relates to physical abuse, abandonment, or neglect by the parent" as provided in I.C. § 33-6001(3). For more information concerning the parent's right to access and potential limits under HIPAA and other federal laws, see our article at https://www.hollandhart.com/idahos-new-parental-access-law-v-hipaa.

6. Private Lawsuits. The statute still allows parents to sue providers for a violation of parental consent or access rights:

> (a) Any parent who is deprived of a right as a result of a violation of this section shall have a private right of action against the individual, health care provider, or governmental entity.
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> …
>
> (c) A parent who successfully asserts a claim or defense under this section may recover declaratory relief, injunctive relief, compensatory damages, reasonable attorney's fees, and any other relief available under law.[47]

However, the new law modified the applicable 2-year statute of limitations: now such lawsuits must "be initiated within two (2) years after the harm occurred or two (2) years after the discovery, by the parent, of the facts constituting the claim, whichever is later."[48] The Idaho Tort Claims Act applies to any such claims brought against governmental entities.[49]

Conclusion. Idaho health care providers and others who might render health care services to minors should review the amended statute and implement changes consistent with the law, including adding required statements to any blanket consent forms and updating policies to address revised exceptions. On the whole, the amendments should relieve much of the angst felt by non-professionals and many health care providers offering first aid to sick or injured minors, pregnant minors, minors needing emergency care, or minors who are victims of crimes; nevertheless, many questions and concerns remain about the scope and application of the law. Providers will need to monitor developments and perhaps seek additional amendments in the future.

For more information about the law to the extent not affected by the new amendments, see our article at https://www.hollandhart.com/idahos-new-

parental-consent-law-faqs.

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[1] H.B. 860, 68th Leg. 2d Reg. Sess. (Idaho 2026), available at https://legislature.idaho.gov/sessioninfo/2026/legislation/H0860/.

[2] I.C. § 32-1015(3).

[3] I.C. § 32-1015(1)(e).

[4] I.C. § 32-1015(1)(f).

[5] I.C. § 32-1015(2), emphasis added.

[6] I.C. § 32-1015(1)(c).

[7] I.C. § 18-603.

[8] I.C. § 39-3801.

[9] I.C. § 39-307 and IDAPA 16.05.01.250.02.

[10] I.C. § 39-3701

[11] https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2024/legislation/S1329SOP.pdf.

[12] *See generally* https://www.hollandhart.com/new-limits-on-minor-consents-in-idaho.

[13] I.C. § 32-1015(3).

[14] I.C. § 32-1015(1)(b).

[15] I.C. § 32-1015.

[16] I.C. § 16-2403(1).

[17] *See* I.C. §§ 16-2403(1), 18-604(3), and 66-402(6); *see also id*. at §§ 32-101(3) and 15-1-201(15).

[18] *See* I.C. § 18-604(3).

[19] *See* I.C. §§ 66-402(6) and 32-104; *see also Ireland v. Ireland*, 123 Idaho 955, 855 P.2d 40 (1993), and *Embree v. Embree*, 85 Idaho 443, 380 P.2d 216 (1963).

[20] The Idaho legislature has declared that "[t]he capacity to become pregnant and the capacity for mature judgment concerning the wisdom of bearing a child or of having an abortion are not necessarily related…." (I.C. § 18-602(d)). Thus, Idaho's abortion statute generally requires parental consent before a legal abortion may be performed on a minor unless certain emergency or judicial bypass conditions are satisfied. (I.C. § 18-609A). Consent would not be necessary if pregnancy

were an emancipating event. Also, I.C. § 18-609A specifically refers to a "pregnant unemancipated minor" which would not exist if pregnancy were an emancipating event.

[21] I.C. § 32-1015(3)(a).

[22] I.C. § 32-1015(4)(d).

[23] I.C. § 32-1015(4)(b). Formerly, the emergency exception was limited to services necessary to prevent death or "imminent, irreparable physical injury" or if the "child's life would be seriously endangered by delay…" while parental consent was obtained.

[24] *See, e.g.,* I.C. §§ 39-4504(1)(i), 56-1015, and 16-2422(1)

[25] CMS State Operations Manual App. V—Interpretive Guidelines—Responsibilities of Medicare Participating Hospitals in Emergency Cases (Rev. 07-19-19) at Tag A2406.

[26] I.C. § 32-1015(3)(b).

[27] I.C. § 5-330.

[28] I.C. § 5-331.

[29] I.C. § 39-1391.

[30] I.C. § 32-1015(4)(c).

[31] I.C. § 32-1015(4)(f).

[32] *Id.*

[33] I.C. § 32-1015(5).

[34] I.C. § 32-1015(4)(e).

[35] I.C. § 32-1015(3).

[36] I.C. § 32-1015(4)(a)(i).

[37] I.C. § 32-1015(4)(a)(i).

[38] I.C. § 32-1015(4)(a)(ii).

[39] I.C. § 32-1015(4).

[40] I.C. § 39-4506.

[41] I.C. § 32-1015(9); *see also* I.C. § 32-1013(3).

[42] I.C. § 16-1605.

[43] I.C. § 32-1015(6).

[44] I.C. § 32-1015(1)(d).

[45] I.C. § 32-1015(7)(a).

[46] I.C. § 32-1015(7)(c).

[47] I.C. § 32-1015(13).

[48] I.C. § 32-1013(6).

[49] I.C. § 32-1015(13)(a).
