

## Washington State Law Survey of a Minor's Right to Consent to Treatment

With all the regulations surrounding HIPAA, the age of consent for patients has created a renewed source of inquiry in the pharmacy world. In order to help you provide appropriate and patient sensitive care, here is a reference table of the relevant Washington State Law. The following has been taken as an excerpt from the NACDA Foundation State Privacy Law Survey for Washington (1).

At what age does a minor become an adult under the law?	Eighteen, or if married to a person who is at least eighteen.	RCW 26.28.010, RCW 26.28.20
Under what circumstances may an unemancipated minor give effective consent to treatment?	Sexually transmitted diseases (if minor is 14 years of age or older)	RCW 70.24.110
	HIV testing;	RCW 70.24.330, RCW 70.24.0147
	Abortion;	RCW 9.02.100 WL 168466
	Family planning services;	WAC 388-15-240
	Treatment by a chemical dependency treatment program (outpatient, if minor is 13 years of age or older);	RCW 70.96A.095
	Mental health services (outpatient, if minor is 13 years or older).	RCW 71.34.030

### **Do the statutes or regulations address a pharmacy's disclosure of or access to the minor's prescription records in situations where the minor provided effective consent to treatment?**

Yes. In Washington, if a patient is a minor and is authorized to consent to health care without parental consent under federal and state law, only the minor may exercise the rights of a patient as to information pertaining to health care to which the minor lawfully consented. (*RCW 70.02.130*) The term "health care provider" is defined as a person who is licensed, certified, registered, or otherwise authorized by the law of Washington to provide health care in the ordinary course of business or practice of a profession. (*RCW 70.02.01*)

In accordance with Washington statute, no person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease, except as authorized by law. No person may disclose or be compelled to disclose the identity of any person upon whom an HIV antibody test is performed, or the results of such a test, nor may the result of a test for any other sexually transmitted disease, when it is positive, be disclosed. This protection against disclosure of the test subject, diagnosis, or treatment also applies to any information relating to diagnosis of or treatment for HIV infection and for any other confirmed sexually transmitted disease. Parents of minors over 14 years of age and who are otherwise competent may not receive this information. (*RCW 70.24.105*)

In a telephone conversation with Margaret Gilbert, In-House Counsel to the Board of Pharmacy, she confirmed that the term "health care provider" as it is used in (*RCW 70.02.130*) includes pharmacists. However she stated that the Board has not specifically addressed the issue of whether the parent of a minor who has given effective consent to treatment could access the minor's prescription records.

1 Excerpts taken from: © 2003 National Association of Chain Drug Stores Foundation and Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

Telephone conference with Margaret Gilbert, In-House Counsel to the Board of Pharmacy, on January 9, 2003, (360) 236-4913.

**Legal Disclaimer.** The analysis is provided for general education and information, and is not intended to be legal advice. The authors have attempted to assure that the information presented in the analysis is accurate as of the date of publication. However, the HIPAA privacy standards and state privacy standards are voluminous, vague, and subject to change, and the applicability or inapplicability of a particular standard depends upon the precise factual circumstances. Contact an experienced privacy attorney to discuss legal advice regarding implementation of the HIPAA requirements as they relate to your unique situation.

For more information: [www.nacdsfoundation.org/nacdsfoundation/2002/Washington.DOC](http://www.nacdsfoundation.org/nacdsfoundation/2002/Washington.DOC)